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AVIATION SYSTEM DELAYS

HEARING

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

SPECIAL HEARING

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AVIATION SYSTEM DELAYS

FRIDAY, SEPTEMBER 7, 1984

U.S. SENATE,
SUBCOMMITTEE ON TRANSPORTATION AND RELATED AGENCIES,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10:02 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senators Andrews, Chiles, and Stennis.

Also present: Senator Lautenberg.

CONGRESSIONAL WITNESSES

STATEMENTS OF:

HON. JOHN C. STENNIS, U.S. SENATOR FROM MISSISSIPPI
HON. LAWTON CHILES, U.S. SENATOR FROM FLORIDA
HON. ALFONSE M. D'AMATO, U.S. SENATOR FROM NEW YORK
HON. LOWELL P. WEICKER, JR., U.S. SENATOR FROM CONNECTICUT

OPENING REMARKS

Senator ANDREWS. Ladies and gentlemen, this morning we will hear from spokesmen from various segments of the aviation community, airports, general aviation, regional carriers, and also the major commercial air carriers. We are also happy to welcome the Federal Aviation Administrator, Don Engen, who is appearing before the subcommittee for the first time since his confirmation last April.

First, however, I would like to yield to my distinguished colleague, a very valuable member of this subcommittee, who chaired it some 20 years ago. He has an emergency conflict, so he won't be able to stay. He may return before the hearings are concluded.

Senator Stennis is recognized at this time.

STATEMENT OF SENATOR STENNIS

Senator STENNIS. Mr. Chairman, I certainly thank you.

When I saw that you were going to hold these hearings, I had two immediate reactions. Well, they will be worthwhile hearings, and he will probably get something done, and the other one was, I know this is a field where there ought to be hearings and have a chance to get at the facts of the case.

I am not an expert in any field, much less this one, but I did handle a bill, as you said, some 20 years ago, and I was amazed at the problems that are presented, including the men who work up in the tower, I call it, the controllers.

I want to be sure that I say nothing unfavorable to those who went on strike, but this is one of the last places in the world where the employees should hear that they are justified in just walking off or trying to close the thing down. I don't want to do anything that would counteract what has been done in that field, but I believe this, that we haven't had enough controllers since then, and we are not going to have enough, perhaps, until we just bodily take charge of this thing and provide for the trainees.

Incidentally, I want to point out that when we had this bill up once, after it got to the floor, they raised a point about getting 1,000 additional trainees above the budget. Well, I was against that, of course, but we held a hearing. I was convinced that we needed them, and I changed my position. We went back to the floor, and we got the 1,000. They were trained and put in.

That was a long time ago, but I remember what they said. I made a point against them that they couldn't recruit 1,000 men all at once. They insisted they could. I said, well, where are you going to get them. Finally, one said, we will take them away from the Air Force. I understand that this is just about what they did.

Senator ANDREWS. They gave them back to the Air Force.

Senator STENNIS. I suppose so. Anyway, this is a serious matter.

I have no grievance against the carriers, but I think we overdid the thing when we passed the deregulation bill. They want to use the time to the best advantage they can nationally, and they are scheduling a lot of these trips, too many as it seems to me.

What I am interested in now is, let's get the facts, and let's do it your way. You know how to get to the bottom of things and develop it.

I thank you very much for letting me express my interest. I will certainly get back unless there is something very, very grave, and I am just bodily kept away.

Senator ANDREWS. We can understand your commitment. We appreciate your being here. We are looking forward to your contribution to the eventual resolution of this problem.

Senator STENNIS. Thank you.

STATEMENT OF SENATOR ANDREWS

Senator ANDREWS. The subject, of course, of today's hearing is aviation system delays. We are told that aviation traffic has increased 6 percent over prestrike levels—6 percent over prestrike levels—yet system delays are up some 80 percent over last year's levels. You don't have to be a first-rate mathematician to look at those figures and realize that something simply isn't working.

This statistic, alarming as it is, doesn't come close to describing the actual impact that system delays can have on all parties involved: passengers, controllers, and the airlines themselves. Passengers are held up by interminable delays, miss connections, can't get to appointments. Controllers are overworked. If controllers went on strike because they were overworked what does that mean today, given the volume that they handle, the fewer number of controllers, and work conditions right now.

I think we have to realize also that the airlines are forced to pay tens of millions of dollars in additional costs because of these delays—fuel use, missed connections, airplanes that are not able to get from point A to point B to take on a next flight. These are high costs and have to be passed on to the traveling public.

Ultimately, Congress has to monitor such delay problems to ensure that we are not seeing any lessening of safety. Inconvenience, scheduling problems, dollar costs to the airlines are serious certainly, but not nearly as serious as the tragedy that could be brought about if we began to see some midair collisions. Any traffic system that is so saturated that it can't handle the business that is assigned to it has to be losing a little bit, if not quite a lot in safety.

During Senate consideration of the fiscal year 1984 supplemental appropriation bill, Senator Weicker of Connecticut, and I sponsored an amendment which in a modest way addresses the number of controllers available to handle traffic. The provision, signed into law on August 22, allows retired controllers to collect both their salaries and pensions, without dual compensation penalty for one additional year.

It was a very minor step in what we thought was the right direction, but it was done over the intense objections of the Department of Transportation. Since that time, however, we continue to read about delays and hear about them from colleagues and the flying public.

The New York Times, in an editorial this morning, pointed out, I think in summary, that the Government's ploy is a political dodge, not a policy. I think we have to look at that and recognize that we are not looking for a political solution. We are looking for hard facts.

We have the responsibility to fund the FAA, and the other groups necessary to provide airline safety. This committee has been told again and again, since the time of the controller strike, that we had adequate controllers in place, and a system that did work, but what we are observing, of course, in the marketplace is exactly the opposite.

I certainly recognize that a subject as complex as this doesn't lend itself to simple solutions. That is not why we have convened the subcommittee. The purpose, instead, is to better understand the problem and possible solutions. We want to make sure that everything possible is being done in the near-term to eliminate delays. In the event, however, that some legislative solutions are necessary, we in Congress need to know that before recessing for the election, and that recess comes about in 4 short weeks.

Also because the public's interest is so totally involved, it is important that we hold these hearings out in the public where everyone knows what solutions are being proposed and what problems are being sensed by the individuals most closely associated with air traffic safety and air traffic control.

I want to thank all the witnesses for cooperating with the subcommittee. Of course, I would ask that testimony be summarized briefly to allow more time for questions. As you all know, your full text will appear in the printed hearing record.

Before beginning the witness testimony, I would like to yield to my colleague, Senator Chiles, the ranking member of this subcommittee, for any initial remarks he might have.

Senator, good to have you here.

STATEMENT OF SENATOR CHILES

Senator CHILES. Thank you very much.

Mr. Chairman, I want to compliment you on scheduling this hearing. The subject of aviation system delays is one that has certainly attracted a great deal of attention this summer, and one that has caused a great deal of inconvenience to our traveling public. This hearing, therefore, offers the potential of helping us to better understand what is causing these delays and what can be done about it.

We are all pleased that the economy is beginning to turn upward and that there has been an approximate 8-percent growth in air traffic. It is remarkable, however, that with this relatively small increase in aviation traffic over prestrike levels, the system delays are up some 80 percent over last year's level in August, and nationwide delays were 276 percent over the same month 1 year ago.

I applaud Administrator Engen and the Federal Aviation Authority for convening the think-tank group to work together to try to solve these problems. Such groups established at the biggest airports will also be helpful in solving the problems. The think-tank group has recommended a number of changes in air traffic procedures that would provide increase in system capacity.

I notice, however, in Administrator Engen's statement, that even if all of the recommended air traffic procedures were implemented only a modest increase in capacity could be expected. During the last decade there has also been considerable resistance to building new airports and expanding onground capacity of existing airports. That resistance results from inadequate land availability, opposition by local communities, noise problems, and high capital costs.

I am pleased to see that the FAA is proposing to increase its controller work force by 1,400 positions. You are right, Mr. Chairman, for a long time we have been asking, did we have adequate positions. We have known that much of the work force was strained to its capacity. While this is 2,000 fewer than were employed before the strike, it is certainly going to be an improvement over the current situation.

I am also pleased that the aviation industry has agreed to meet and consider peak time demand reduction at our busiest airports. I am not sure that it is the best way to do that, but I know that we have to do something. While it is understandable that all carriers want to provide service at popular times, some way has to be found to reduce those peak demands to bring an immediate solution to the problem.

Mr. Chairman, I want to commend you again on convening this hearing, and I look forward to learning about what can be done to help solve the problems in the air system delays.

PREPARED STATEMENTS

Senator ANDREWS. Thank you, Senator. Good to have you here. We also have statements from other members of the committee.

[The statements follow:]

STATEMENT OF SENATOR D'AMATO

MR. CHAIRMAN, I APPRECIATE THIS OPPORTUNITY TO PARTICIPATE IN TODAY'S HEARING REGARDING AVIATION SYSTEM DELAYS. I COMMEND YOU FOR SCHEDULING THIS HEARING WHICH WILL EXPLORE A PROBLEM THAT HAS REACHED ALARMING PROPORTIONS IN RECENT MONTHS.

AIR TRAVELERS HAVE BEEN CONFRONTED AND CONFOUNDED BY INTOLERABLE DELAYS AT MANY OF THE NATION'S AIRPORTS. AT SOME OF THE LARGER AIRPORTS LOCATED CLOSE TO OUR MAJOR CITIES, SUCH AS KENNEDY, LA GUARDIA, AND NEWARK, PASSENGERS HAVE BEEN SUBJECTED TO FREQUENT, LONG DELAYS. THIS DISRUPTION IN SCHEDULED SERVICE HAS LED TO MUCH FRUSTRATION AND WASTED TIME FOR AIR PASSENGERS WHO OFTEN FIND THEMSELVES UNABLE TO MAKE TRAVEL CONNECTIONS OR TO ARRIVE ON TIME FOR BUSINESS MEETINGS THEY HAVE TRAVELED LONG DISTANCES TO ATTEND.

THE CHRONIC AIRPORT DELAYS THAT HAVE PLAGUED AIRPORTS IN RECENT DAYS ARE RESPONSIBLE, NOT ONLY FOR WASTING THE TIME OF MANY TRAVELERS, BUT ALSO FOR WASTING ENERGY, AS FULLY-LOADED PLANES SIT ON RUNWAYS AWAITING CLEARANCE TO TAKE-OFF. DELAYS AT MAJOR AIRPORTS CREATE A RIPPLE EFFECT WHICH PRODUCES MORE DELAYS AND CONGESTION AT OTHER AIRPORTS. THUS, THE PROBLEMS OF CHICAGO'S O'HARE AIRPORT, ATLANTA'S HARTSFIELD AIRPORT, DENVER'S STAPLETON AIRPORT, AND THE NEW YORK REGION'S THREE MAJOR AIRPORTS

BECOME THE PROBLEMS OF THE ENTIRE NATION'S AIR TRANSPORTATION NETWORK.

AIRPORT DELAYS ALSO ERODE PUBLIC CONFIDENCE IN THE RELIABILITY OF AIRLINES AND AIRPORTS. THE TRAVEL INDUSTRY AND ITS VARIOUS COMPONENTS - AIRLINES, HOTELS, RESORTS, RESTAURANTS, ETC. - WILL ULTIMATELY SUFFER IF THE PUBLIC, EVEN TEMPORARILY, DECIDES THAT IT IS NOT WORTH THE TIME TO UTILIZE AIR TRAVEL ON A REGULAR BASIS.

WHAT IS WORSE IS THE LARGER QUESTION OF WHETHER THESE DELAYS ARE INDICATIVE OF A SYSTEM THAT IS OVERLOADED AND BREAKING DOWN: ARE THE SKIES OVERCROWDED WITH AIRCRAFT? IS AIR TRAVEL AS SAFE AS IT USED TO BE? MANY AIR PASSENGERS ARE NOT SURE ANYMORE.

THERE ARE A PLETHORA OF CAUSES FOR AIRPORT DELAYS. AN AUGUST, 1984, REPORT ENTITLED "AIRPORT SYSTEM DEVELOPMENT," ISSUED BY THE OFFICE OF TECHNOLOGY ASSESSMENT (OTA), POINTS OUT THAT DELAYS MAY ARISE FROM MANY DIFFERENT POINTS WITHIN THE AIR TRANSPORTATION SYSTEM INCLUDING: THE RUNWAY LAYOUT, AIRLINE SCHEDULING, THE TRAFFIC MIX, NOISE RULES, AIR TRAFFIC CONTROL, TERMINAL BUILDING DESIGN, BAGGAGE HANDLING, TICKETING OPERATIONS, LAND ACCESS, ETC. CLEARLY, OUR LARGEST AIRPORTS ARE ALREADY EXPERIENCING SERIOUS DELAYS; HOWEVER, THE FEDERAL AVIATION ADMINISTRATION (FAA) PREDICTS THAT BY THE YEAR 2000 AS MANY AS 60 MAJOR CARRIER AIRPORTS WILL ENCOUNTER UNACCEPTABLE DELAYS IF NO

REMEDIAL ACTION IS TAKEN. OTA'S REPORT RECOMMENDS A FLEXIBLE AND VARIED FEDERAL AIRPORT POLICY WHICH MAKES THE BEST USE OF THE INNOVATIONS MADE POSSIBLE BY NEW TECHNOLOGY.

DURING THE PAST YEAR, AIRPORT DELAYS HAVE INCREASED BY MORE THAN 300 PERCENT AT NEWARK AND LAGUARDIA AIRPORTS AND BY 100 PERCENT AT KENNEDY AIRPORT. IN A RECENT LETTER TO ME, PETER GOLDMARK, EXECUTIVE DIRECTOR OF THE NEW YORK AND NEW JERSEY PORT AUTHORITY, SAID THAT NINETY PERCENT OF ALL FLIGHTS INTO THE NEW YORK METROPOLITAN REGION'S AIRPORTS EXPERIENCED DELAYS OF 15 MINUTES OR MORE IN JUNE OF THIS YEAR.

I AM ENCOURAGED, HOWEVER, BY THE CIVIL AERONAUTICS BOARD'S DECISION LAST WEEK TO GRANT LIMITED ANTI-TRUST IMMUNITY TO THE AIRLINES SO THAT THEY MIGHT JOIN TOGETHER TO COORDINATE AIRLINE SCHEDULES FOR A ONE-YEAR PERIOD. THE CONDITIONAL IMMUNITY WILL EXPIRE AFTER 45 DAYS. IF THE AIRLINES HAVE NOT MANAGED TO REACH AN AGREEMENT WITHIN THAT TIME WITH RESPECT TO ALTERING THEIR SCHEDULES, THEN THE FAA HAS INDICATED THAT IT WILL STEP IN AND WILL REGULATE ACCESS TO THE AIRPORTS ITSELF.

MEETINGS HAVE ALREADY TAKEN PLACE WITH AIRLINE OFFICIALS FROM ATLANTA'S HARTSFIELD AIRPORT AND DENVER'S STAPLETON AIRPORT. TODAY'S MEETINGS CONCERN CHICAGO'S O'HARE AIRPORT. OVER THE COMING WEEKEND, DISCUSSIONS WILL FOCUS ON SCHEDULING AT THE 3 NEW

YORK CITY AREA AIRPORTS. THESE 6 AIRPORTS, ACCORDING TO THE FAA, ACCOUNT FOR MORE THAN 75 PERCENT OF ALL DELAYS NATIONWIDE.

PARTICIPANTS AT THESE VOLUNTARY TALKS WILL ATTEMPT TO REACH AGREEMENTS REGARDING SCHEDULING FEWER FLIGHTS DURING PEAK PERIODS. THE FAA HAS INDICATED THAT IT EXPECTS THE AIRLINES TO LIMIT THE NUMBER OF FLIGHTS SCHEDULED FOR EACH FIVE-MINUTE PERIOD. ALTHOUGH THE TOTAL FLIGHTS ALLOWED ARE DIFFERENT AT EACH AIRPORT, THE FIVE-MINUTE SCHEDULING IS MORE RESTRICTIVE THAN THE 30 MINUTE SCHEDULING CURRENTLY MANDATED FOR SPECIFIC HOURS AT O'HARE AND LAGUARDIA. THE FAA WOULD ENFORCE VIOLATIONS OF SCHEDULING AGREEMENTS BY THE IMPOSITION OF CIVIL PENALTIES.

ACCORDING TO THE FAA, NEARLY 10 PERCENT OF ALL SCHEDULED FLIGHTS, NATIONWIDE, WERE MORE THAN 15 MINUTES LATE LAST MONTH. NATIONWIDE FLIGHT DELAYS IN AUGUST AFFECTED 44,372 FLIGHTS AND REPRESENTED AN INCREASE OF 276 PERCENT OVER THE SAME PERIOD IN THE PREVIOUS YEAR. THE DELAYS ARE EVEN WORSE AT THE SIX MAJOR AIRPORTS WHICH CURRENTLY ARE TRYING TO WORK OUT BETTER SCHEDULING ARRANGEMENTS.

MANY FACTORS HAVE COMBINED TO CAUSE THE PROBLEMS WHICH NOW MAKE AIR TRAVEL AN ORDEAL DURING PEAK PERIODS AT MANY AIRPORTS. ONE FACTOR OVER WHICH AIRLINES AND AIRPORT OPERATORS HAVE NO CONTROL IS THE UNUSUALLY POOR WEATHER DURING THE PAST YEAR IN CERTAIN KEY REGIONS. OTHER CAUSES INCLUDE UNANTICIPATED HIGH

CONSUMER DEMAND FOR FLIGHTS. MORE AND MORE AMERICANS NOW USE AIR TRAVEL FOR THEIR LONG DISTANCE TRAVEL AND THE USUAL SUMMER PEAK USAGE HAS BEEN AUGMENTED BY MANY MORE TRAVELERS VACATIONING ABROAD TO TAKE ADVANTAGE OF FAVORABLE EXCHANGE RATES.

AT THE MAJOR NEW YORK/NEW JERSEY AIRPORTS, THE PROBLEM HAS BEEN AIRSPACE MANAGEMENT, RATHER THAN AIRPORT FACILITY CAPACITY. THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY INDICATES THAT THERE IS ADEQUATE AIRFIELD CAPACITY AT KENNEDY AIRPORT TO REASONABLY MEET DEMAND, BOTH PRESENT AND AS FORECAST FOR THE NEXT TEN YEARS OR LONGER. FOR NEWARK, THE PRESENT AIRFIELD CAPACITY IS CURRENTLY ADEQUATE, BUT MAY BE FULLY UTILIZED WITHIN THE NEXT FEW YEARS. LAGUARDIA, HOWEVER, IS CURRENTLY OPERATING "AT CAPACITY" MOST OF EACH DAY. IN ADDITION, OPERATIONAL LIMITATIONS REQUIRED BY THE FAA TO PREVENT OVERBURDENING OF AIR TRAFFIC CONTROLLERS, SUCH AS AIRCRAFT FLOW CONTROL (E.G. HOLDING PLANES ON THE GROUND) AND AIRSPACE SECTOR ASSIGNMENTS (I.E, THE MANNER IN WHICH WORK IS ASSIGNED TO CONTROLLERS), ARE STILL IN PLACE, DESPITE INCREASED CONSUMER DEMAND AND INCREASED NUMBERS OF NEW CONTROLLERS.

HUB AND SPOKE OPERATIONS OF MANY AIRLINES ALSO ARE FEEDING MORE AND MORE PASSENGERS INTO THE NEW YORK AREA AIRPORTS, AS WELL AS OTHER MAJOR AIRPORTS ACROSS THE COUNTRY. CLUSTERING OF FLIGHTS AT PEAK HOURS AT THESE HUBS CONTRIBUTES TO THE SEVERITY

OF CURRENT DELAYS. SPREADING FLIGHTS OUT MORE EVENLY OVER THE HOUR, RATHER THAN BUNCHING THEM WITHIN SMALL TIME PERIODS DURING MORNING AND EVENING PEAK HOURS, WOULD HELP TO RELIEVE SOME OF THE CURRENT STRAIN ON AIRPORT CAPACITY.

THE INCREASING POPULARITY OF GENERAL AVIATION USE OF AIRPORTS, WHICH NOW ACCOUNTS FOR MORE THAN 50 PERCENT OF AIRPORT USE NATIONWIDE, AND ABOUT 10 PERCENT FOR THE NEW YORK AIRPORTS, IS ALSO A SIGNIFICANT FACTOR IN AIRSPACE USE. OVER THE NEXT FEW YEARS, GENERAL AVIATION IS PROJECTED TO GROW AT A FASTER RATE THAN COMMERCIAL AVIATION. ADDITIONAL DEMAND, TO SOME EXTENT, HAS COME FROM THE RAPID GROWTH OF AIR CARGO AND PARCEL CARRIERS.

THE FAA'S PROPOSED RULE, WHICH WILL TAKE EFFECT IF THE AIRLINES CANNOT VOLUNTARILY READJUST THEIR SCHEDULES WITHIN 45 DAYS, WOULD TEMPORARILY LIMIT THE NUMBER OF TAKEOFFS AND LANDINGS DURING PEAK MORNING AND AFTERNOON HOURS. THE FAA'S PROPOSAL WOULD EXPIRE ON APRIL 1, 1985. IT WOULD IMPOSE ADDITIONAL CONSTRAINTS ON OPERATIONS AT KENNEDY AND LAGUARDIA AIRPORTS DURING CERTAIN TIMES BECAUSE THEY ARE ALREADY SUBJECT TO THE FAA'S HIGH DENSITY RULE. THE HIGH DENSITY RULE, WHICH DOES NOT AFFECT NEWARK AIRPORT, LIMITS TOTAL HOURLY MOVEMENTS. THE PROPOSED RULE WOULD IMPOSE NEW ADDITIONAL RESTRICTIONS ON THE NUMBER OF ARRIVING AIRCRAFT.

YESTERDAY, THE FAA ANNOUNCED THE HIRING OF 1,400 ADDITIONAL

AIR TRAFFIC CONTROLLERS. THESE ADDITIONAL CONTROLLERS WILL BRING THE TOTAL CONTROLLER WORKFORCE UP TO ABOUT 14,300. THESE NEW PERSONNEL, PLUS THE DECLINE IN CONSUMER DEMAND THAT NORMALLY FOLLOWS THE SUMMER PEAK AND THE UPCOMING VOLUNTARY SHIFTING OF AIRLINE SCHEDULES WILL COMBINE TO HELP PRODUCE A REDUCTION IN CURRENT AIRPORT DELAYS.

I AM CONFIDENT THAT WE CAN SOLVE THE PROBLEM OF UNREASONABLE AIRPORT DELAYS AND THAT THIS SUBCOMMITTEE WILL CONTINUE TO MONITOR CLOSELY THE IMPROVEMENTS PLANNED BY THE FAA WITH RESPECT TO THE MODERNIZATION AND EXPANSION OF THE AIR TRAFFIC CONTROL SYSTEM. AGAIN, I THANK THE CHAIRMAN FOR CONVENING THIS HEARING AND FOR HIS KINDNESS IN LETTING ME PRESENT MY VIEWS.

STATEMENT OF SENATOR WEICKER

ALTHOUGH I AM NOT A MEMBER OF THE SUBCOMMITTEE ON TRANSPORTATION APPROPRIATIONS, I AM HERE TODAY BECAUSE I AM VERY CONCERNED ABOUT THE DELAYS SO MANY AIR TRAVELERS HAVE BEEN FORCED TO EXPERIENCE RECENTLY ON A ROUTINE BASIS. WHEN APPROXIMATELY ONE IN TEN FLIGHTS IS DELAYED MORE THAN FIFTEEN MINUTES, SOME QUESTIONS MUST BE ASKED ABOUT AIRLINE SCHEDULING, AIRSPACE CAPACITY AND ANY OTHER FACTORS WHICH MAY BE CONTRIBUTING TO THE OVERALL TRAFFIC CONGESTION PLAGUING OUR SKIES.

I KNOW FROM PERSONAL EXPERIENCE THAT ONE RECENT AIRLINE FLIGHT FROM WASHINGTON, D.C. TO NEW YORK WAS DELAYED FOR APPROXIMATELY FIVE HOURS; A FLIGHT THAT SHOULD ROUTINELY TAKE APPROXIMATELY ONE HOUR. THESE KIND OF DELAYS CANNOT CONTINUE IF THE AIRLINE INDUSTRY IS TO PROVIDE A RESPONSIBLE AND SAFE SERVICE TO THE PUBLIC.

I COMMEND SENATOR ANDREWS FOR CONDUCTING THIS HEARING TO EXAMINE THE FACTORS WHICH ARE CAUSING THE DELAY PROBLEMS AND THIS SUBCOMMITTEE FOR EXPLORING WAYS IN WHICH THESE DELAYS MAY BE SIGNIFICANTLY REDUCED.

NONDEPARTMENTAL WITNESSES

AMERICAN ASSOCIATION OF AIRPORT EXECUTIVES

STATEMENT OF CHARLES M. BARCLAY, EXECUTIVE VICE PRESIDENT

Senator ANDREWS. Our first witness is Charles Barclay, the executive vice president of the American Association of Airport Executives speaking for airport management.

Mr. Barclay.

Mr. BARCLAY. Thank you, Mr. Chairman.

The American Association of Airport Executives is a professional management organization that represents 1,000 airport executives who manage approximately 600 airports nationwide. We represent airports from the largest to the smallest.

Mr. Chairman, to summarize our testimony, we wish to point out that the immediate air traffic control (ATC) capacity problem is, in fact, just a coming attraction of a problem we have to face anyway. Even if we could solve the ATC capacity problem overnight, we are still faced with the not too distant identical problem that ultimately only so many airplanes will physically fit on the taxiways waiting to take off from Chicago O'Hare, or another key congested airport.

So the answer provided in the next few months of how we allocate scarce access at a key saturated airport will have both widespread and lasting effect even after the ATC problem is solved.

Certainly the committee will hear today of a variety of demand problems caused by all the users. But the basic problem is that the system is getting over-concentrated at too few key airports that have a limited ability to expand. As we explain, there are good economic reasons for this tendency of the system to over-congest at a few airports, but the end result must be finding a proper balance between the positive economics of concentrating connecting passenger traffic and the need to spread demand for airport capacity to under-utilized facilities.

Approximately three-quarters of the passengers at Atlanta, and one-half the passengers at Chicago and Denver arrive at those airports merely to change planes for other destinations. Federal Government policy should encourage the use of the inherent flexibility of this element of the system, rather than adopt policies which might tend to foster further system concentration.

Of paramount concern to airport executives is the FAA's "buy/sell" proposal for slots, because this proposal is precisely the kind of counterproductive solution that we fear. Worse, this proposal is unfair in the short-term to small communities, while its long-term counterproductive effects are at work.

To people who say that FAA's "buy/sell" proposal is simply a mechanism to permit the Federal Government to get out of a slot allocation business so that market forces can allocate a scarce resource, our reply is nonsense. Rarely has there been proposed a greater Federal Government intrusion in the marketplace.

Mr. Chairman, here we have a proposal for the Federal Government to give away a valuable resource, these slots at these key airports for free to some of the participants in the marketplace, the incumbents at those airports, and then tell them that 90 days later, they can sell those slots for whatever they can get to the rest of the participants in the marketplace, the nonincumbent carriers.

This proposal amounts to a multimillion dollar distortion of the marketplace by the Federal Government, rather than free enterprise at work. Further, any type of marketplace mechanism for the allocation of slots, even those without the flaws inherent in FAA's proposal, would be unfair to small communities in the short and intermediate terms.

If the need to get in and out of a few key airports can determine the financial and operational conditions of the entire system as is clearly evident by the need for today's hearings, then how can we propose to allocate access to those essential airports by wealth. At least for the present, access to the high density airports represents access to a regional monopoly for many small- and medium-size communities, which geographically just must connect with these airports.

Further, FAA estimates that in just 6 years up to 32 airports will require some slot allocations. We wonder where does the airplane go when it leaves Fargo if all the key surrounding hub airports are slotted to the highest bidder. We would caution the committee that the rulemaking's exemption for essential air service is not the solution.

As an analogy, Mr. Chairman, let's hypothetically assume that North Dakota has physically exhausted its potential sites for electric powerplants, has more demand than capacity, and cannot purchase additional electric power outside the State.

Would we say that electricity is now a scarce resource and should be allocated to people who are willing to pay the most. I doubt that that would be the response as opposed to some across-the-board rationing system that puts pressure on all users to find alternatives.

Beyond the question of equity, an economic allocation will simply enhance the incentives for carriers to further congest saturated airports with greater numbers of connecting passengers at peak hours because they are going to have to justify and pay for the high cost of the slots.

The American Association of Airport Executives is recommending a lottery allocation method for slots which is further described in our comments. We think that a lottery mechanism is equally fair and unfair to all communities, passengers, and airlines that need to get into the limited access of these key airports.

Ultimately, Mr. Chairman, I don't think that there is any doubt that the marketplace can correct the over-capacity problem. I couldn't resist bringing for the committee a full-page add from the Wall Street Journal of Wednesday of Republic Airlines that says, "Take Republic to Relieve Congestion." It is a cartoon of an airport in total chaos, with two towers, and every inch of the ramp is taken up with passengers, bags, and airplanes. They are advertising for people to fly on Republic flights that avoid the congested airports that are now seeing delays.

Federal policy is now at a crossroads, as we see it. We can either adopt the policies that allow or even make things much worse before the marketplace gets so harrassed and makes them better, and we think small communities will suffer during that process, or we can take the path of policy that provides incentives to the system to start making some of those shifts now, and they are shifts that ultimately we think have to be made.

Mr. Chairman, we hope the Congress will seriously consider the consequences of "buy/sell" before it is permitted to go into effect.

Finally, on a peripheral ATC matter, the Airport Executives wish to thank Chairman Andrews and Ranking Member Chiles for their encouragement to FAA to proceed with a tower contract program at level I towers. FAA should be applauded for developing a comprehensive program, and we are anxiously awaiting its timely introduction.

I think recent events have underscored the need for towers in the interest of safety at these smaller airports, and we commend Chairman Andrews and Senator Chiles for their leadership toward that end.

Thank you, Mr. Chairman, and I will be happy to answer any questions.

[The statement of Mr. Barclay follows:]

Statement of Charles M. Barclay

I AM CHARLES BARCLAY, EXECUTIVE VICE PRESIDENT OF THE AMERICAN ASSOCIATION OF AIRPORT EXECUTIVES (AAAE). AAAE IS A PROFESSIONAL MANAGEMENT ORGANIZATION REPRESENTING 1,000 AIRPORT EXECUTIVES WHO ARE RESPONSIBLE FOR THE PLANNING, MANAGEMENT, AND OPERATION OF OVER 600 AIRPORTS NATIONWIDE. AAAE HAS MEMBERS AT 98% OF THE COMMERCIAL SERVICE AIRPORTS IN THE UNITED STATES.

INTRODUCTION

AAAE APPLAUDS THESE TIMELY HEARINGS AND ENCOURAGES THE CONGRESS TO TAKE AN ACTIVE ROLE IN ASSURING THAT THE FEDERAL RESPONSE TO THE SIGNIFICANT CAPACITY/DELAY PROBLEM IS AN APPROPRIATE ONE. OUR TESTIMONY WILL ATTEMPT TO PRESENT THE COMMITTEE WITH SOME THOUGHTS ON THE LONG-TERM ISSUES WHICH SHOULD NOT BE OVERLOOKED IN FINDING SHORT-TERM SOLUTIONS TO THIS DILEMMA. WE UNDERSTAND THAT THE COMMITTEE IS EXAMINING A SIGNIFICANT, IMMEDIATE PROBLEM AND WANTS SOLUTIONS AS QUICKLY AS POSSIBLE, RATHER THAN FUTURE THEORY. OUR CONCERN IS THAT SOME OF THE SUGGESTED SHORT-TERM SOLUTIONS COULD, IN OUR VIEW, HAVE SERIOUS LONG-TERM CONSEQUENCES FOR THE NATIONAL AIRPORTS SYSTEM.

FIRST, AS IS GENERALLY RECOGNIZED, THE IMMEDIATE PROBLEM IS ONE OF AIR TRAFFIC CONTROL (ATC) CAPACITY. IT'S A SERIOUS PROBLEM CAUSING GREAT INCONVENIENCE TO PASSENGERS AND PILING ECONOMIC COSTS ON THE AIR TRANSPORTATION SYSTEM. THE ATC PROBLEM NEEDS A SOLUTION. BUT, MR. CHAIRMAN, ASSUME FOR A MOMENT THAT WE FIND THAT SOLUTION - EVEN IF WE COULD INSTANTLY DOUBLE THE NUMBER OF CONTROLLERS AND MODERNIZE ALL ATC EQUIPMENT TO THE ULTIMATE -- WE WOULD STILL BE HEADING TOWARD THE EXACT SAME PROBLEM THAT FACES US TODAY. BECAUSE AIRPORT CAPACITY IN ITS TOTAL SENSE, AND THE WAY THE SYSTEM USES THAT CAPACITY, IS AT THE CORNERSTONE OF THE PRESENT AND FUTURE DELAY PROBLEM. ONCE ATC CAPACITY IS BUILT TO WELL OVER THAT REQUIRED TO HANDLE ALL AIRPLANES IN THE AIR, WE STILL WILL BE ABLE TO FIT ONLY SO MANY AIRPLANES ON THE TAXIWAYS WAITING TO TAKE OFF AT O'HARE. THE PRACTICAL REALITY IS THAT

CAPACITY ADDITIONS AT THE EXISTING HIGH DENSITY AIRPORTS WILL BE EITHER MARGINAL OR NON-EXISTENT, SO THE QUESTION OF HOW WE SOLVE THE SHORT-TERM ATC PROBLEM IS REALLY A PROLOGUE TO THE NOT-TOO-FAR-AWAY QUESTION OF HOW WILL WE RESPOND WHEN A KEY HIGH-DENSITY AIRPORT BECOMES PHYSICALLY SATURATED? HOW IS ITS LIMITED SPACE ALLOCATED FAIRLY, AND HOW DO WE ACCEPT THIS EVENTUAL REALITY WITHOUT ALSO ACCEPTING A PERMANENT SYSTEM FRAUGHT WITH DELAY, INCONVENIENCE, AND ARGUMENTS OVER WHO GETS ACCESS?

THE CORE CAUSE OF TODAY'S AND TOMMORROW'S PERSISTENT DELAYS IN THE SYSTEM IS NOT GENERAL AVIATION USERS, THE WEATHER, OR FAA'S MANAGEMENT OF THE ATC SYSTEM, ALL OF WHICH CERTAINLY REPRESENT MARGINAL FACTORS AT THESE KEY AIRPORTS; IT IS SIMPLY THAT OUR AIR TRANSPORTATION SYSTEM IS EXCEEDINGLY RELIANT ON A VERY FEW, HIGH DENSITY AIRPORTS FOR CONNECTING PASSENGER TRAFFIC. THE SYSTEM IS ON ITS WAY TO BECOMING OVER-RELIANT ON THESE FEW, SATURATED AIRPORTS. I WOULD POINT TO THE OTHER TESTIMONY TO BE PRESENTED ON THE "RIPPLE EFFECTS" ON THE WHOLE SYSTEM OF DELAYS AT ONLY ONE OF THESE AIRPORTS AS EVIDENCE. THIS IS NOT A PROBLEM THAT THE FEDERAL GOVERNMENT CAN REGULATE OR LEGISLATE AWAY BY FIAT. HOWEVER, WE CAN BE SURE THAT THE FEDERAL GOVERNMENT ADOPTS POLICIES THAT PROVIDE INCENTIVES FOR THE SYSTEM TO SHIFT ITSELF AWAY FROM THIS IMBALANCE RATHER THAN ADOPTING POLICIES WHICH ADD TO IT.

THE AIRLINE ECONOMICS OF HUBBING AND CONCENTRATING CONNECTING TRAFFIC AT ONE POINT IS THE CAUSE OF THIS SYSTEM IMBALANCE, BUT IS ALSO CENTRAL TO LOW PASSENGER FARES IN HARMONY WITH REASONABLE AIRLINE PROFITABILITY. IN OTHER WORDS WHAT IS GOOD FOR AIRLINE PROFITS AND PASSENGER FARES, WHEN CARRIED TO ITS EXTREME, IS UNFORTUNATELY NOT GOOD FOR OUR CAPACITY/DELAY PROBLEMS. LET ME BE CLEAR IN STATING THAT WE ARE NOT FINDING FAULT WITH THE AIRLINES. THEY ARE ACTING AS RATIONAL BUSINESS EXECUTIVES. AND, IN GENERAL, THE ECONOMICS OF HUBBING TRAFFIC IS GOOD FOR THE SYSTEM, THE AIRLINES AND THE PASSENGERS. THE PROBLEM DEVELOPS WHEN AIRLINE

ECONOMICS TEMPT THE AIRLINES AS A GROUP TO GET CARRIED AWAY. I SUPPOSE THE ABSOLUTE EXTREME WOULD BE PATTERNING THE WHOLE SYSTEM AFTER FEDERAL EXPRESS -- TAKE EVERYONE TO ONE AIRPORT AND SEND THEM BACK OUT IN FULL PLANES TO THEIR FINAL DESTINATIONS. CLEARLY WE MUST FIND A BALANCE BETWEEN THE POSITIVE ASPECTS OF HUBBING AND THE OVER-CONCENTRATION OF THE SYSTEM AT TOO FEW AIRPORTS.

IN APPROACHING THE PROBLEM OF SYSTEM DELAYS AND OVER-SATURATED AIRPORTS WE BELIEVE THE FEDERAL GOVERNMENT SHOULD KEEP ITS ATTENTION ON THE CONNECTING PASSENGER ELEMENT IN THE SYSTEM. PROBABLY ALL AIRPORTS HAVE OR CAN HAVE THE CAPACITY AVAILABLE TO HANDLE THEIR LOCAL MARKETS FOR MANY YEARS TO COME. HOWEVER, THE KEY, HIGH DENSITY AIRPORTS ARE ALSO REQUIRED TO ACCOMODATE THE PASSENGER DEMAND OF MANY TRAVELERS WHO HAVE ABSOLUTELY NO PREFERENCE WHERE THEY CONNECT SO LONG AS THEY FINALLY ARRIVE AT THEIR DESTINATIONS. AS EXAMPLES, APPROXIMATELY THREE-FOURTHS OF THE PASSENGERS AT ATLANTA AND ONE-HALF OF THE PASSENGERS OF CHICAGO AND DENVER ARRIVE AT THOSE AIRPORTS MERELY TO CHANGE PLANES FOR OTHER DESTINATIONS. AAAE BELIEVES THAT IT SHOULD BE THE AIM OF FEDERAL POLICY TO PROVIDE THE INCENTIVES TO UTILIZE THE FLEXIBILITY INHERENT IN THIS ELEMENT OF THE MARKET TRYING TO COMPETE FOR SCARCE CAPACITY. THIS EFFORT SEEMS TO MAKE EVEN MORE SENSE WHEN ONE REALIZES THAT SYSTEM-WIDE AIRPORT CAPACITY IS MORE THAN ADEQUATE TO ACCOMODATE DEMAND FOR SOME TIME TO COME IF A REGIONAL REALLOCATION OF JUST SOME CONNECTING TRAFFIC COULD TAKE PLACE.

MR CHAIRMAN, WE DO NOT SEEK TO TRY AND OVER-SIMPLIFY A COMPLEX PROBLEM. OBVIOUSLY ALL ELEMENTS OF THE SYSTEM ADD DEMAND AND AT ONE TIME OR ANOTHER MIGHT APPEAR TO BE THE STANDOUT MARGINAL CULPRIT AT A KEY, CONGESTED AIRPORT. OUR POINT IS THAT ALL AIRPORTS FACE THE VARIOUS ELEMENTS OF DEMAND FOR CAPACITY THAT EXIST IN THE SYSTEM AND WE BELIEVE THAT ALL AIRPORTS HAVE OR CAN HAVE THE CAPACITY TO MEET THOSE DEMANDS IF WE COULD WAVE A MAGIC WAND AND SHIFT THE "DIRCRETIONARY CONNECTING PASSENGERS" WHO DO

NOT NEED (OR WANT) TO UTILIZE THE ALREADY SATURATED AIRPORTS. WE HAVE NO MAGIC WAND TO SUGGEST, BUT RATHER BELIEVE THAT BOTH THE FEDERAL GOVERNMENT AND LOCAL AIRPORT OPERATORS NEED TO ADOPT POLICIES WHICH PROVIDE INCENTIVES TO THE AIRLINES TO SHIFT SOME CONNECTING TRAFFIC; AND OBVIOUSLY NOT PROVIDE INCENTIVES TO CONTINUE ITS CONCENTRATION AT THE FEW HIGH DENSITY, OVER-CONGESTED AIRPORTS.

MR. CHAIRMAN, WE HAVE A SERIOUS SYSTEM BOTTLENECK TODAY BECAUSE SIX AIRPORTS NEED SLOTTING AT LEAST DURING, SOME PERIODS OF THE DAY. FAA PROJECTS THAT IN SIX YEARS, BY 1990, THIRTY-TWO AIRPORTS WILL REQUIRE SOME SLOT RESTRICTIONS AND BY THE END OF THE DECADE (ONLY FOUR PRESIDENTIAL ELECTIONS AWAY) SIXTY-ONE AIRPORTS WILL HAVE TO BE CAPACITY CONTROLLED. BUT, ONE WONDERS WHEN WE SEE THE CURRENT EFFECT OF CAPACITY STRAINS AT JUST SIX AIRPORTS, WHAT THE AFFECT OF CONSTRAINTS ON TEN TIMES THAT NUMBER OF AIRPORTS WILL BE? TO MAINTAIN A DEREGULATED SYSTEM WE MUST ASSURE THAT THE LEGAL BARRIERS TO ENTRY, ELIMINATED BY THE AIRLINE DEREGULATION ACT, ARE NOT REPLACED WITH PHYSICAL OR ECONOMIC BARRIERS TO ENTRY.

I. SLOT SALES ARE INAPPROPRIATE

OF PARAMOUNT CONCERN TO AIRPORT EXECUTIVES ARE THE FAA'S NPRMS ON SLOT ALLOCATION ALTERNATIVE METHODS (DOCKET NO. 24110) AND SLOT TRANSFER METHODS (DOCKET NO. 24105). PERHAPS BETTER KNOWN AS THE "BUY/SELL" PROPOSAL FOR SLOTS, THIS PROPOSAL IS PRECISELY THE TYPE OF COUNTERPRODUCTIVE SOLUTION TO OUR IMMEDIATE PROBLEMS THAT WE FEAR. WORSE, THIS PROPOSAL IS UNFAIR IN THE SHORT-TERM TO SMALL COMMUNITIES WHILE ITS LONG-TERM COUNTERPRODUCTIVE EFFECTS ARE AT WORK. WE HAVE ATTACHED TO OUR TESTIMONY THE FULL TEXT OF OUR COMMENTS TO FAA ON THESE PROPOSALS.

FIRST, WE WOULD LIKE TO ANSWER THE PEOPLE WHO SAY THE FAA'S BUY/SELL PROPOSAL IS SIMPLY A MECHANISM TO PERMIT THE FEDERAL GOVERNMENT TO GET OUT OF THE SLOT ALLOCATION BUSINESS SO THAT

MARKET FORCES CAN ALLOCATE THIS SCARCE RESOURCE. OUR REPLY IS NONSENSE. RARELY HAS THERE BEEN PROPOSED A GREATER FEDERAL GOVERNMENT INTRUSION IN THE MARKET PLACE. HERE WE HAVE A PROPOSAL FOR THE FEDERAL GOVERNMENT TO GIVE A VALUABLE RESOURCE (THE SLOT) AWAY FOR FREE TO SOME OF THE PARTICIPANTS IN THE MARKET PLACE (INCUMBENT CARRIERS) AND TELL THEM THEY MAY SELL THAT RESOURCE TO THE REST OF THE PARTICIPANTS IN THE MARKETPLACE (NON-INCUMBENT CARRIERS). IF SLOTS AT THE HIGH DENSITY AIRPORTS ARE INDEED LIKELY TO BE WORTH $200,000 TO $500,000 EACH, THIS PROPOSAL AMOUNTS TO A MULTI-MILLION DOLLAR DISTORTION OF THE MARKETPLACE BY THE FEDERAL GOVERNMENT, RATHER THAN FREE ENTERPRISE AT WORK.

FURTHER, ANY TYPE OF MARKETPLACE MECHANISM FOR THE ALLOCATION OF SLOTS, EVEN THOSE WITHOUT THE FLAWS INHERENT IN THE FAA PROPOSALS, WOULD BE UNFAIR TO SMALL COMMUNITIES IN THE SHORT AND INTERMEDIATE TERMS. IF A FEW KEY AIRPORTS CAN DETERMINE THE FINANCIAL AND OPERATIONAL CONDITION OF THE ENTIRE SYSTEM, AS HAS BEEN AMPLY DEMONSTRATED BY THE NEED FOR THIS HEARING, THEN HOW CAN WE PROPOSE TO ALLOCATE ACCESS TO THOSE KEY AIRPORTS BY WEALTH? AT LEAST FOR THE PRESENT, ACCESS TO THE HIGH DENSITY AIRPORTS REPRESENTS ACCESS TO A REGIONAL MONOPOLY FOR MANY SMALL AND MEDIUM SIZE COMMUNITIES. AS AN ANALOGY MR. CHAIRMAN, LET'S HYPOTHETICALLY ASSUME THAT NORTH DAKOTA HAS PHYSICALLY EXAUSTED ITS POTENTIAL SITES FOR ELECTRIC POWER PLANTS, HAS MORE DEMAND THAN CAPACITY, AND CANNOT PURCHASE ADDITIONAL ELECTRIC POWER FROM OUTSIDE THE STATE. WOULD WE SAY ELECTRICITY IS NOW A SCARCE RESOURCE WHICH SHOULD BE ALLOCATED TO THE PEOPLE WHO ARE WILLING TO PAY THE MOST? WE DOUBT THIS WOULD BE THE RESPONSE AS OPPOSSED TO SOME ACROSS-THE-BOARD RATIONING SYSTEM THAT PUT PRESSURE ON ALL USERS TO FIND ALTERNATIVES.

ONCE AGAIN, IT'S IMPORTANT TO REMEMBER THAT WE ARE NOT JUST CONSIDERING BUY/SELL AT THE FOUR AIRPORTS COVERED BY FAA'S NPRM OR THE SIX AIRPORTS UNDER DISCUSSION. IF BY 1990, THIRTY-TWO AIRPORTS ARE SLOTTED TO THE HIGHEST BIDDER WHERE DOES THE AIRPLANE

LAND WHEN IT LEAVES FARGO OR MINOT? CAN THEY ECONOMICALLY COMPETE FOR SLOTS AVAILABLE TO THE HIGHEST BIDDER AT CHICAGO, DENVER, SEATTLE, OR MINNEAPOLIS?

A BUY/SELL SYSTEM IN THE SHORT AND INTERMEDIATE TERMS IS RELATIVELY EASY TO FORECAST. IN GENERAL, THE BUYERS WILL BE THE CARRIERS WITH LONG-HAUL, HIGH DENSITY ROUTE POTENTIAL, AND THE SELLERS WILL BE THE CARRIERS WITH SHORT-HAUL AND LOW DENSITY MARKETS. ON THE OTHER HAND, IF WE RATION THIS SCARCITY ACROSS-THE-BOARD, AS WE SURELY WOULD OTHER ESSENTIAL, MONOPOLY SERVICES, IT WOULD BE EQUALLY FAIR AND UNFAIR TO ALL COMMUNITIES AND CARRIERS IN THE SHORT AND INTERMEDIATE TERMS. AND FURTHER, GIVING ALL PARTICIPANTS THE INCENTIVE TO FIND ALTERNATIVE HUB AIRPORTS IN THE LONG-TERM.

BEYOND THE QUESTIONS OF THE EQUITY OF ANY ACCESS ALLOCATION SYSTEM IS THE ISSUE OF CREATING INCENTIVES TO DEVELOP THE MOST EFFICIENT USE OF OUR NATIONWIDE AIRPORT AND AIR TRAFFIC RESOURCES. ANY ALLOCATION MECHANISM WHICH, FOR EXAMPLE, PLACES HIGH COSTS ON A SLOT AT 5 PM AT CHICAGO O'HARE CREATES THE INCENTIVE FOR AN AIRLINE TO FIND THE LARGEST PLANE POSSIBLE AND FILL IT WITH AS MANY CONNECTING PASSENGERS AS IT CAN MANAGE TO MANIPULATE ONTO THAT ROUTING (SINCE THE LOCAL O&D MARKET WILL REMAIN RELATIVELY CONSTANT). IN OTHER WORDS, AN ECONOMIC ALLOCATION ENHANCES THE INCENTIVES FOR CARRIERS TO FURTHER CONGEST SATURATED AIRPORTS WITH GREATER NUMBERS OF CONNECTING PASSENGERS AT PEAK HOURS. FURTHER, IT CREATES THE ANOMOLY THAT, IN OUR EXAMPLE, PASSENGERS FROM A MARKET SUCH AS LOS ANGELES, WHO DON'T WANT TO BE IN CHICAGO, ARE FORCED TO CONNECT THERE; WHILE PASSENGERS FROM A SMALL CITY IN NORTH DAKOTA, WHO NEED TO BE IN CHICAGO, CANNOT GET THERE AT ALL BECAUSE THEY CAN'T AFFORD THE SLOT.

THE LONG-TERM, EFFICIENT USE OF OUR NATIONAL AIRPORT FACILITIES ARGUES FOR THE GOVERNMENT TO CREATE INCENTIVES FOR THE AIRLINES TO SHIFT SOME OF THE CONNECTING PASSENGER TRAFFIC AWAY FROM THE SATURATED AIRPORTS AND ATC FACILITIES INTO THE

NON-SATURATED AND UNDER-UTILIZED FACILITIES. THE FURTHER DEVELOPMENT OF MINI-HUBS AND NEW HUBS PROVIDES THE MOST EFFICIENT USE OF OUR "PHYSICAL PLANT" NATIONALLY, AND ANY FEDERALLY-SPONSORED ACCESS ALLOCATION SYSTEM SHOULD ENHANCE RATHER THAN RETARD THIS TREND.

II. SLOT ALLOCATION LOTTERIES SHOULD BE USED

AIRPORT EXECUTIVES SUGGEST THAT ANY ALLOCATION SYSTEM HAVE THE FOLLOWING GOALS:

1) PROVIDE A MAXIMUM INCENTIVE FOR THE SCHEDULING COMMITTEE PARTICIPANTS TO NEGOTIATE AGREEMENT;

2) PROVIDE FAIR ACCESS TO ALL COMMUNITIES REQUIRING SERVICE TO THE RESTRICTED HUB; AND

3) PROVIDE A LONG RUN INCENTIVE FOR ALL AIRLINES TO SHIFT SOME OF THE CONNECTING PASSENGER TRAFFIC AWAY FROM THE CONGESTED HUB AIRPORTS.

WITH THESE GOALS IN MIND, AAAE RECOMMENDS THE LOTTERY ALLOCATION METHOD FURTHER DESCRIBED IN OUR COMMENTS. THIS SYSTEM MEETS THE FIRST GOAL, BY PENALIZING THE SCHEDULING COMMITTEE FOR NON-AGREEMENT COMPARED TO THE NPRM'S EVENTUAL REWARD TO MOST CARRRIERS FOR NON-AGREEMENT. A NEGOTIATED, COMPROMISE SOLUTION IS PROBABLY THE BEST SOLUTION IN THE REAL WORLD FOR THE MAJORITY OF PASSENGERS, AIRLINES, AND COMMUNITIES. HOWEVER, WHERE THERE IS NOT AGREEMENT, A PERCENTAGE OF SLOTS WOULD BE TAKEN AWAY FROM THE INCUMBENTS AND AWARDED BY LOTTERY IN A DRAWING IN WHICH BOTH INCUMBENTS AND NEW ENTRANTS WOULD PARTICIPATE. IN COMBINATION WITH A STRICT USE-IT-OR-LOSE-IT POLICY THIS MECHANISM IS EQUALLY FAIR AND UNFAIR TO THE AIRLINES, PASSENGERS, AND COMMUNITIES WHO WISH TO UTILIZE THE LIMITED ACCESS.

WE BELIEVE THAT THE UNCERTAINTY AND RANDOM NATURE OF THE LOTTERY WILL HAVE TWO PRIMARY EFFECTS. THE SHORT-TERM EFFECT, AS STATED, WILL BE TO PUT PRESSURE ON ALL PARTICIPANTS IN THE SCHEDULING COMMITTEE TO COMPROMISE AND NEGOTIATE AN AGREEMENT SINCE NO CARRIER, NO MATTER HOW STRONG IN THE MARKET OR CASH RICH CAN BE SURE OF ITS OUTCOME FROM A LOTTERY. THE LONG-TERM EFFECT, AGAIN ON ALL CARRIERS, IS TO FORCE THEM TO LOOK AT SHIFTING SOME PORTION OF THEIR CONNECTING TRAFFIC TO OTHER AIRPORTS. CLEARLY THERE ARE ECONOMIC LIMITS TO A CARRIER'S INCENTIVE TO SHIFT CONNECTING PASSENGERS FROM KEY HUBS, BUT THERE IS JUST AS CLEARLY AN ABILITY AND NECESSITY TO MAKE SOME SHIFTS FOR THE SAKE OF THE SATURATED HUBS AND THE EFFICIENT USE OF EXISTING AIRPORT AND ATC RESOURCES. AIRPORT EXECUTIVES BELIEVE THE PROPOSED LOTTERY SYSTEM IS ADMINISTRATIVELY WORKABLE, FAIR, AND BEST MEETS THE NEEDS OF THE TOTAL AIR TRANSPORTATION SYSTEM.

MR. CHAIRMAN, WE HOPE THE CONGRESS WILL SERIOUSLY CONSIDER THE CONSEQUENSES OF BUY/SELL BEFORE IT IS PERMITTED TO GO INTO EFFECT.

MR. CHAIRMAN, PERMIT ME TO CONCLUDE ON A POSITIVE NOTE OF WHAT THE CONGRESS, FAA, AND THE INDUSTRY CAN ACCOMPLISH IN CONCERT ON AN ATC PROBLEM. AIRPORT EXECUTIVES WISH TO THANK CHAIRMAN ANDREWS AND RANKING MEMBER CHILES, AS WELL AS ALL THE COMMITTEE MEMBERS WHO ENCOURAGED FAA TO PROCEED WITH A TOWER CONTRACT PROGRAM AT LEVEL I TOWERS CLOSED BOTH BEFORE AND AFTER THE CONTROLLER STRIKE. WE UNDERSTAND THAT FAA IS PROCEEDING WITH A COMPREHENSIVE PROGRAM TO EVENTUALLY INCLUDE UP TO SEVERAL HUNDRED AIRPORTS FOR WHICH WE COMMEND THE AGENCY. FAA SHOULD BE APPLAUDED FOR ITS DILIGENCE IN DEVELOPING A PROGRAM THAT IS VERY RESPONSIVE TO THE NEEDS OF THE INDUSTRY, AND WE ARE ANXIOUSLY AWAITING THE TIMELY IMPLEMENTATION OF THIS PROGRAM. THE TOWER CONTRACT PROGRAM IS AN EXCELLENT EXAMPLE OF HOW THE PRIVATE SECTOR AND THE FEDERAL GOVERNMENT CAN WORK TOGETHER TO PROVIDE A NEEDED SERVICE AT A REDUCED COST TO THE FEDERAL GOVERNMENT.

RECENT EVENTS HAVE UNDERSCORED THE NEED FOR THE TOWERS IN THE INTEREST OF SAFETY AT THESE SMALLER AIRPORTS AND WE THANK SENATORS ANDREWS AND CHILES FOR THEIR EFFECTIVE LEADERSHIP TOWARD THAT END.

Letter From Charles M. Barclay

Federal Aviation Administration
Office of the Chief Counsel
Attn: Rules Docket (AGC-204)
Docket No. 22471
800 Independence Avenue, SW
Washington, DC 20591

July 27, 1984

Dear Sir:

This is in response to the Department of Transportation (DOT)/Federal Aviation Administration (FAA) Notices of Proposed Rule Making (NPRM) issued on June 1, 1984 - Slot Allocation Alternative Methods (Docket No. 24110; Notice 84-7) and Slot Transfer Methods (Docket No. 24105; Notice 84-6).

The American Association of Airport Executives (AAAE) is a non-profit professional management organization representing 1,000 airport executives responsible for the planning, management, and operation of 600 airports nationwide. AAAE has members at 98 percent of the commercial service airports in the United States.

INTRODUCTION

Airport executives strongly oppose the suggested buy/sell proposal as offered in the NPRM. Further, AAAE opposes any economic allocation of these slots for two reasons: First, any economic allocation ignores the reality that an essential, mononpoly service is being allocated and therefore free market theories are not appropriate. Second, an economic allocation will not make the most efficient use of our airport and air traffic resources from any long-term, nationwide perspective of the air transportation system.

The Federal government must realize that this is not a debate of the allocation of scarce resources in an open market. Rather it is a decision that for many smaller communities and smaller markets represents the allocation of access to a regional monopoly, often without practical alternatives. This is precisely the argument the Federal government has used in the past to justify its stepping in to veto airport operator decisions on access restrictions. Therefore, any economic allocation comes down to the argument that the public will be served by allowing only the wealthiest among us to have access to a monopoly service. This is hardly the economic theory applied to other public service monopolies.

Beyond the questions of the equity of any access allocation system is the issue of creating incentives to develop the most efficient use of our nationwide airport and air traffic resources. Any allocation mechanism which, for example, places high costs on a slot at 5 pm at Chicago O'Hare creates the incentive for an airline to find the largest plane possible and fill it with as many connecting passengers as it can manage to manipulate onto that routing (since the local O&D market will remain relatively constant). In other words, an economic allocation enhances the incentives for carriers to further congest saturated airports with greater numbers of connecting passengers at peak hours. Further it creates the anomoly that, in our example, passengers from a market such as Los Angeles who don't want to be in Chicago are forced to connect there; while passengers from a Waukegan, IL who need to be in Chicago cannot get there at all because they can't afford the slot.

The long-term, efficient use of our national airport facilities argues for the government to create incentives for the airlines to shift some of the connecting passenger traffic away from the saturated airports and ATC facilities into the non-saturated and under-ulitized facilities. The further development of mini-hubs and new hubs provides the most efficient use of our "physical plant" nationally, and any Federally-sponsored access allocation system should enhance rather than retard this trend.

Therefore, airport executives suggest that any allocation system have the following goals:

1) Provide a maximum incentive for the scheduling committee participants to negotiate agreement;

2) Provide fair access to all communities requiring service to the restricted hub; and

3) Provide a long run incentive for all airlines to shift some of the connecting passenger traffic away from the congested hub airport.

With these goals in mind, AAAE recommends the lottery allocation methods further described in these comments. This system meets the first goal, by penalizing the scheduling committee for non-agreement compared to the NPRM's eventual reward to most carrriers for non-agreement. A negotiated, compromise solution is probably the best solution in the real world for the majority of passengers, airlines, and communities. However, where there is not agreement, a percentage of slots would be taken away from the incumbents and awarded by lottery in a drawing in which both incumbents and new entrants would participate. In combination with a strict use-it-or-lose-it policy this mechanism is equally fair and unfair to the airlines, passengers, and communities who wish to utilize the limited access.

We believe that the uncertainty and random nature of the lottery will have two primary effects. The short-term effect, as stated, will be to put pressure on all participants in the scheduling committee to compromise and negotiate an agreement since no carrier, no matter how strong in the market or cash rich can be sure of its outcome from a lottery. The long-term effect, again on all carriers, is to force them to look at shifting some portion of their connecting traffic to other airports. Clearly there are economic limits to a carrier's incentive to shift connecting passengers from key hubs, but there is just as clearly an ability and necessity to make some shifts for the sake of the saturated hubs and the efficient use of existing airport and ATC resources. Airport executives believe the proposed lottery system is administratively workable and best meets the primary needs of the total air transportation system.

COMMENTS

As has been the case in previous positions, AAAE is unequivocally opposed to any DOT/FAA proposal which will remove government restrictions on the transfer of slots (or airport landing rights) used by air carrier operators at the high density airports (Chicago O'Hare, New York LaGuardia and JFK, and Washington National). Under the DOT/FAA proposal, air carriers would be permitted to buy and sell slots "for any mutually acceptable consideration".

AAAE opposes any economic allocation of airport landing rights (i.e. buy/sell, auction). We question the rationale for allowing private airlines to obtain federally authorized landing slots at no cost, thereby acquiring a property right which permits them to subsequently sell these slots to other airlines at large profit without any requirement that the financial gain go toward the improvement and expansion of the air transportation system. Further, AAAE is very concerned about the propriety of federal agencies establishing provisions that control access to public facilities, such as airports, without regard for the operational concerns of such facilities.

The DOT/FAA proposal will grant air carriers sovereign property rights to the nation's airspace while discriminating against new entrant airlines and smaller monopoly markets at congested airports. With the national airspace in the hands of air carrier companies, access to public airports would be purchased and controlled by private interests. This benefits only a few financially secure airlines while, at the same time, provides no guarantee that capacity problems are actually being solved. Valuable access to public facilities, originally conferred to the incumbent carriers free of charge, would be bought and sold to the profitable advantage of private enterprise and the detriment of airline passenger fares. We wonder why any economic allocation suggested by the Federal government should not instead work to the financial benefit of airline passengers, such as bidding the slots to the carriers which propose the lowest fares. But, it appears to be very unsound to allow federally-imposed restrictions to be objects of financial speculation.

The DOT/FAA "buy/sell" slot proposal has the certain effect of restricting access of the smaller cities air transportation markets to the major hub airports. NPRM 84-6 prohibits commuters/regionals from buying and selling slots at the four high density airports; however, as the number of congested airports continues to rise (up to 32 by 1990 according to FAA estimates) and slots become more valuable and scarce, the commuters/regionals eventually will be able to make a strong case to the Courts that they are being unjustly discriminated from participation in this aftermarket. If the Courts agree and commuters/regionals are allowed to sell their valuable resources given to them at no cost by the federal government, once again small communities are the losers. Additionally, many of the air carriers will exit the smaller communities for the more profitable markets to receive the greatest utilization of their slots. This will force commuter/regionals into the smaller communities thereby reducing seat capacity and service.

AAAE offers the following examples of how an economic allocation of airport landing rights can be devastating to smaller communities, thereby restricting their access to the air transportation system. These case studies occurred when the DOT/FAA experimented with a "buy/sell" slot policy in 1982.

(1) Pioneer Airlines, a commuter serving Denver, CO from such cities as Alliance and Sidney, NE, "sold" 12 Denver slots to United Airlines for over $1 million. As Pioneer was the only carrier serving several non-hubs in the Midwest and Near West from Denver, a couple of non-essential air service (EAS) communities lost valuable access to the air transportation system. Many airport executives were fearful that commuters would use the revenue derived from the sale of slots to begin other businesses, exiting the airline industry entirely and leaving many small communities without valuable air service.

(2) Altair Airlines sold all five of the slots they were utilizing to serve Washington National from Charleston, SC (a non-EAS airport) to People Express for $1.75 million. This transaction resulted in Charleston losing its only nonstop service to Washington, its third largest market.

These two examples point out in graphic terms that any sale of airport landing rights, either by commuters or larger airlines, will result in their purchase by financially stronger airlines in larger markets, thereby deteriorating service to the smaller communities. The Airline Deregulation Act only deregulated airline fares and airline routes. The legislative history of the Act did not intend for aviation resources controlled by government - the airspace rights parcelled by the FAA and airport capacity provided by the local government airport proprietor - to be allocted by market mechanisms. In addition, the theory of deregulation has been that if substantial passenger traffic exists in a market, air service will most likely be available due to the market's potential profitability. In most of the smaller, non-EAS markets, enough passenger traffic exists to justify service initiation or expansion. And yet, due to the new element of buying and selling slots, this service might be discontinued because of the airline's opportunity costs in a closed market. Certainly, the community's needs are heavily over-shadowed in this process.

Any economic allocation of slots would be counter productive to the entire transportation system. To use their scarce resouces in the most efficient manner possible and to maximize revenues, air carriers that buy solts at the high density airports will transport the greatest number of people possible at the peak hours to justify slots costs. The result of this increased connecting traffic will be additional congestion at peak hours, thereby putting more and more strain on the system.

Additionally, because many of the smaller airports in this country are in reality seeking access to a regional monopoly (the hub airport), we believe it is not sound economic policy to award access to this essential, monopoly service to the richest bidder. We contend that for many communities this discussion is about monopoly economics, not free market economics.

Faced with the prospect that they can not afford slots at peak hours, many of the smaller, financially weaker carriers serving less dense markets will be precluded from using the large high density airports. Thus, passengers relying on those smaller carriers will not have access to the connecting flights at the hub airports. We remind DOT/FAA that a key ingredient of a deregulated enviornment is the absence of substanial barriers to entry. If the "buy/sell" proposal is adopted, new entrants and some incumbents will be faced with insurmountable barriers as history has proven that some landing rights on the free market will cost up to $500,000.

The deregulation of the airline industry has increased demand for scarce slots, both from airlines with existing landing rights and from new entrants. Accordingly, designing an efficient non-economic rationing system for the allocation of slots at individual airports has become a more difficult regulatory problem. Airlines and slot-constrained airports must ration their available capacity by some mechanism. In lieu of a pricing system in this unfree market, AAAE offers the following administrative procedure:

(1) Under the DOT/FAA proposal, there is an incentive for the airline scheduling committees to break down at the high density airports. If the committee fails incumbent carriers receive free airport landing rights which can be worth millions of dollars on resale. Rather, there should be a penalty for the scheduling committee reaching an impasse. To provide an incentive for the committee to perform, the DOT/FAA should consider the following non-economic proposal:

(a) Once the scheduling committee cannot break its deadlock at a particular hour, incumbents on the committee will be required to relinquish "X" (20 to 25) percent of the slots they operate at that hour to a lottery. A random drawing will be held for every carrier (incumbents and new entrants) interested in obtaining these slots. The order of selecting these available landing rights will be determined by the order of the random drawing.

A lottery of this nature would eventually help relieve congestion in the system. As an air carrier will not be guaranteed slots (no matter how much cash it has), it forces them to look to under - utilized airports for increased connecting operations (i.e. Piedmont, at Dayton, OH and Charlotte, NC; Eastern at Kansas City, MO).

(b) There must be a separate pool and drawing for commuter/regional slots. The same incentive must apply to the scheduling committee for the commuters/regionals.

(c) The proposal must contain a strict use-it-or-lost-it provision to encourage carriers to use the landing rights for operational and not speculative purposes. This provision should be similar to that proposed by DOT/FAA - "any slot not used five-sevenths or more of the days in any 2 consecutive months must be withdrawn from the carrier to which it has been allocated". Unused slots would simply fall to the next carrier on the list from the random drawing.

(2) From the airport executive's view, slots represent the attributes of the airport, namely runway, terminal, and landside time and space. The DOT/FAA, therefore, should take into consideration the affect of airline bankruptcy on the capacity of the entire air transportation system. The Fifth Circuit Court of Appeals, in discussing the Braniff bankruptcy, held that slots are not property, but are administrative allocation for air traffic control purposes. Nonetheless, valuable terminal gate space at many airports was tied up for months after Braniff filed for bankruptcy. The end result was a loss in efficiency of scarce resources, causing an adverse impact on service to the traveling public.

(3) A crucial issue in initiating service at any airport, slot-constrained or not, is whether the airline can obtain adequate terminal facilities at the airport in question. Before an airline can use a particular route, it must have not only rights to take off or land at the relevant airport, but also access to the terminal. Therefore, AAAE proposes that DOT/FAA establish, through consultation with affected local airport management and users: (1) the true level of capacity at the airport; and (2) measures that can be taken to increase current capacity. This recommendation might be accomplished by permitting the airport operator to participate in the proceedings of the scheduling committees at their respective airport.

(4) All air carriers and commuters/regional will be prohibited from transferring airport landing rights for any consideration. While some may argue that the random nature of a lottery makes this proposal inefficient, we contend that uncertainty is in fact a strength of our proposal. In the short term it puts maximum pressure on all participants in the scheduling committees to compromise and reach agreement--no matter how much cash or connecting traffic they may have on hand. In the longer term this uncertainty about being able to indefinitely pour more connecting traffic into already congested hub airports will force all airlines to examine the marketing possibilities for shifting some connecting traffic to non-saturated airports.

We appreciate the opportunity to offer our comments to this important proposal. AAAE continues to support the DOT/FAA in its efforts to rebuild the air traffic control system.

Sincerely,

Charles M Barclay

Charles M. Barclay, A.A.E.

PROBLEMS WITH HUBBING TRAFFIC

Senator ANDREWS. Thank you very much, Mr. Barclay, for a most interesting statement.

The assertion is made that peak hour congestion reflects consumer demand. You see these consumers in your airports, you see them when they are, shall we say, a little bit more than normally tense while waiting for a plane.

How do we know that consumers prefer to sit backed up on a runway rather than taking an earlier or later flight? Who has done that survey, do you know?

Mr. BARCLAY. The economic system of hubbing traffic works to the benefit of passengers. By getting a lot of passengers in one place at one time, you can send full airplanes out, which means that you can have lower fares.

So the system economically can work well if we can have hubbing to a rational degree. The problem comes when the airlines as a group—I am not trying to blame the airlines, I think they are acting as rational businessmen, but the system itself as a group can get the airlines to get carried away to keep taking too many people to one point.

The extreme for the system, I suppose, would be to pattern it after Federal Express. Take everybody to one airport and send them all back out in full airplanes. It may make economic sense, but physically and for passengers, it doesn't make sense the way it does for packages.

Senator ANDREWS. Should airports set landing fees according to the time of day or level of demand as the OTA report suggests?

Mr. BARCLAY. Perhaps, Mr. Chairman. There is a very mixed result from that for the airports that have tried it. One of the things you can look at is that it is difficult if you put the different charges on the airline as opposed to on the passenger. I think if you put the charges on the passenger directly, it might work much better.

For instance, down in Florida there are two airports of similar size fairly close, one has landing fees seven times the level of the other, but the fares from Washington and New York to both of those communities are the same.

Airlines tend to spread differing costs at airports throughout their system because if they have a key hub where they are peaking, they are competing to get passengers over that routing versus some other routing. So when you just put different charges on carriers, they tend to spread them out over their whole system.

It is a solution, but it is a difficult one to implement practically.

Senator ANDREWS. It appears, Mr. Barclay, that the airports themselves were not directly represented at the July "think tank." Why was this? How did it come about? Are the airports not a part of the problem, and not a part of the solution?

Mr. BARCLAY. I am not sure that we are a key part of the short-term ATC capacity problem. We certainly can help and we will do anything we can to assist, to build new facilities. To help some of this takes a very long time, and I think the FAA is looking at a short-term fix to an immediate problem that is basically air traffic control, and is dependent on the demand for that air traffic control.

We are trying to talk about some of the longer range issues. The need to make the short-term fix is bringing up questions that are going to affect us for years to come over airport capacity. So we don't feel really left out from that task force.

REASONS FOR FLIGHT DELAYS

Senator ANDREWS. I have been held up. I have been flying in and out of Washington for approximately 20 years, and I have been held up this summer a minimum of 1 hour and 15 minutes to get off the ground, and a maximum of 2 hours and 15 minutes, on flights that always used to leave on time.

I fly often enough so that I know some of the pilots. I go up to the cockpit and talk to some of the pilots, and their statement is that they are being held up because the center to the west can't handle them.

It isn't that people are taking off on a too crowded basis from the airport that we are on, which happens to be National. Those runways are not congested. All of the planes are holding, and there isn't a takeoff for 5 minutes or so, and the pilots are saying that they are getting the orders that the control area to the west is congested. Is this what you find among your airport operators?

Mr. BARCLAY. As a general matter, I really couldn't answer that, Mr. Chairman. We are not experts in air traffic control, and it has been very varied over the country as far as delays are concerned.

Senator ANDREWS. If we pick up from the grapevine, certainly you must pick up from the grapevine, and what we are trying to do is to get a few comments so that when Administrator Engen comes up, as the cleanup hitter, so-called, at today's hearings, we will be able to run some of these by him.

Mr. BARCLAY. I realize that this will not answer the question, but if I could point out the silver lining in this cloud, I think it is two things.

After the controller strike, and with the increase in demand, some of the delays clearly are coming because the FAA is being very careful about safety. They are holding airplanes on the ground instead of letting them hold in the air, and they are increasing separation between aircraft. To some extent, this kind of problem is the kind of problem you want to have, it is being over-careful about safety.

Second, it is a response to the fact that the economy has turned up. I would rather be having this debate than the debate that we had a few years ago of how many airlines were going to be going bankrupt how quickly. So the positive aspects are that demand has picked up and safety is being carefully controlled. Now we have to provide the capacity, too.

Senator ANDREWS. I listen to those wonderful words, too, and believed them until we got the statistics that traffic is up 6 percent, and delays are up 80 percent. How do you square that statistic with what you just said?

Mr. BARCLAY. I think that it is what we said throughout our statement. What is going on is not a systemwide increase of 6 percent. The economics of hubbing and concentrating traffic at just a few key airports is getting more and more intense. They are trying to fill up as many airplanes as possible, so they are trying to take as many passengers as possible to the same airports, and that is causing a ripple effect throughout the system.

MAXIMUM RUNWAY AND TERMINAL UTILIZATION

Senator ANDREWS. Is enough being done to maximize runway and terminal utilization? Could airport managers and/or the Federal Government increase short-takeoff and landing runways, more accurately assess airport capacity, and set limits on saturated airports, or to better target improvement funds?

We fund improvements for the several airports, and we face this question of airport capacity. If delays are not out in that regional center, as you say so well, but a problem of airport capacity, what requests have been coming up to make a more sensible utilization of the ground space we have and the facilities we have?

Mr. BARCLAY. Clearly, airport management, and the funds that we receive from the Federal Government can help; we can make marginal capacity increases at these key airports. The long term, however, is that those are going to be stopped at some point because of noise over communities and physical limitations.

I know Chicago, in their major redevelopment that is going on right now, looked at putting on a third major carrier runway. After some analysis, they decided that that wasn't going to add them that much more capacity because of the airspace limitations, ground limitations, and so on. You can only put so many airplanes and so many people on one square piece of ground.

The two answers are, yes, we can be of some marginal capacity, but we still have to take a look at the long-term problem of how do we allocate scarce capacity at a key airport because it is going to come to us some day, so we ought to face it now.

Senator ANDREWS. How do you do this? The statistics we get show that most of the increases are concentrated at roughly one-half of the Nation's airports. Of course, this suggests the growing congestion problem. No airport manager in his right mind is going to discourage growth, yet it is this growth that contributes to delays.

What are you doing to follow up on your suggestion of a moment ago that we ought to spread traffic among a larger number of facilities?

INCENTIVES TO SPREAD TRAFFIC

Mr. BARCLAY. We can't do it regulatorily, we don't believe, but we can provide the kind of incentives that make the marketplace want to spread it. As we point out, rather than going to a "buy/sell" system for allocating, if you put a cap for safety reasons on air traffic control capacity on Chicago, and then you have to figure out how to allocate that capacity.

If you start allocating it by economics, by who will pay the most to get in there, you create the incentive for the airline that buys the 5 p.m. slot at Chicago, and pays a lot of money for it, to get the biggest airplane they can find, manipulate the most connecting passengers it can possibly get over that routing, and put them all into Chicago. So you are increasing the congestion at Chicago.

We think rather, once you put a cap on Chicago, you allocate that scarcity by a lottery, or some other mechanism that may be fairer, but is not particularly rational as far as getting the most people jammed in there. It will make all the airlines serving Chicago think that in the long term, they had better start looking at other facilities for spreading out their connecting passenger growth in the system.

We think that the Federal Government can just provide incentives and perhaps local airport operators should be, too. It depends on the political situation for airport operators. The Port of New York Authority can do a very good job of spreading traffic and giving incentives to use all three airports. You have other areas in the country where three carrier airports are close to each other, but they are all owned by different local jurisdictions and the coordination is a good bit harder.

Senator ANDREWS. Senator Chiles.

Senator CHILES. I don't have any questions.

Senator ANDREWS. Thank you very much, Mr. Barclay.

Our next witnesses are a panel of three, Mr. John Baker, the president of the Aircraft Owners and Pilots Association; Mr. Edward Stimpson, the president of the General Aviation Manufacturers Association; and Mr. Robert Cooke, the vice president of operations for the National Business Aircraft Association.

Welcome to the hearing, gentlemen. We wanted definitely to get your viewpoint because all too often we hear groups saying that general aviation is the cause of all of the congestion, and that really they should be shunted off to some other place.

We are glad to have you here. We hope that you can summarize your statements, recognizing that the total statements will appear in the record as given in their entirety, and that will allow those of us on the subcommittee to have more time for questions.

AIRCRAFT OWNERS AND PILOTS ASSOCIATION

STATEMENT OF JOHN L. BAKER, PRESIDENT,

Mr. BAKER. Thank you, Mr. Chairman.

I am John Baker, president of the Aircraft Owners and Pilots Association. I represent 273,000 pilots and about 170,000 aircraft owners, most of whom use their aircraft for transportation in one form or another, personal or business. Our membership runs from turbines down to somewhat modest single-engine aircraft.

We are obviously disturbed by the message that you have heard also, that general aviation is the cause, or indeed a principal cause, if you listen to some, of the problems being experienced. Our position on that is pretty straightforward. We are paying a social price, essentially, for decisions that have been made over the last 15 years, and that is that we are not going to expand airports or build new airports because of environmental concerns.

The basic root problem of what we are seeing now is runway acceptance rate. The analogy that you drew coming out of Washington National and the crews saying that the centers won't accept them is simply because they have aircraft backed up at Chicago that don't allow them to accept any more traffic.

I personally believe, and I think the facts show, that to introduce safety and/or on route air traffic as a significant cause of this is a red herring. The air traffic system is working effectively. For instance, near misses are down dramatically. If indeed the system were saturated, it wouldn't be the case.

Our problems are almost without exception hub problems, not airspace problems, but runway problems. When you couple that with deregulation, which brought in a group of opportunistic carriers looking to skim, if you will, profits off the high density marketplace, and the fact that we needed commuters to replace the air carriers who moved out of smaller communities because of deregulation, you have a pretty good feel for what has happened.

If you couple that with hub and spoking by the air carriers, which was a unilateral decision made by air carrier management, based presumably on the assumption that you can expand air traffic system capacity at will, and irrational scheduling, and indeed probably greedy scheduling by carriers to the point where they are over-scheduling the airport going in by 150 percent in many instances, you have defined what the problem is.

The solutions are pretty straightforward. I think the marketplace, if indeed there is rational airline management, and that may be a confict of terms, is going to tell some of these people that they can't continue to schedule all of their flights at 9 o'clock in the morning and 5 o'clock in the afternoon out of five or six airports.

I think any arbitrary rationing essentially destroys the national effect of an aviation system. You are saying that States like North Dakota have no access to the Nation's air transportation system because you can't buy, from the volume generated in North Dakota, a slot in Chicago. You are going to buy slots in Chicago for planes coming out of New York, Atlanta, Miami, and Los Angeles. That seems to me to defy public involvement in the transportation system to arbitrarily ban any other class of users carries with it the same ramifications.

The solutions, more runways. The other solution, short runways on hub airport, which is a program that should be accelerated. Again, Washington National is a classic. One of the problems that doesn't exist at Washington National that does at the other hubs is accommodating a high demand from general aviation.

The reason is straightforward, they have two other runways that general aviation uses and they unload the major runways. If we had those runways, the commuter and general aviation user would, in fact, unburden the priceless commodity, which is runways.

Air traffic improvements are not going to change this problem, at least unless Congress can repeal the overseat problem because spacing at airports, that is, acceptance rate, is determined by the weight left from the airplane ahead of it, particularly with heavier aircraft. So you can't shove any more of them onto the existing runways. The only other thing to do is unbundle that runway. As I said, a crash program, if you will excuse the expression, to get some shorter runways built at the hub airports would relieve dramatically.

We in general aviation are, I think, unanimous that we are going to urge our participants to avoid these areas at peak hours as much as possible, but to in any fashion blame general aviation for the problems is clearly missing the point, and any solution that would come from banning us would be illusory because it would make people feel warm all over, but not add one iota of capacity.

We believe the FAA has done an outstanding job. Indeed, I question the hiring of the 1,400 controllers. They are going to run out of chairs before they have a place to put these controllers in. I thought the tower chief at Atlanta made a very cogent statement in this regard. He said, "Only so many people can drive the bus." Additional sectors beyond a certain point don't add anything. They add complexity and they don't add anything in terms of moving additional aircraft.

We believe that it is a tough problem and the solution is going to be long term. Mr. Barclay's position to distribute aircraft across a broader number of airports—his members are not by and large the major airport operators, but he has many outstanding airports in their membership who can indeed accommodate these aircraft, and we see some enlightened carriers moving into these airports.

Charlotte, N.C., for instance, has become a hub, I think, for Piedmont. It may not be the biggest revenue spot for Piedmont, but I think probably they are moving their airplanes more efficiently by hubbing there than trying to hub out of Washington, New York, Philadelphia, or Miami.

That basically sums ours up, Mr. Chairman. We appreciate the opportunity to come.

[The statement of John L. Baker follows:]

STATEMENT OF JOHN L. BAKER

The Aircraft Owners and Pilots Association (AOPA) represents more than 265,000 pilots and aircraft owners in the United States who have authorized the Association to represent them in general aviation matters.

Congestion within the air traffic system, particularly in major terminal areas, is of great concern to our members. The true benefit of the general aviation aircraft lies in its utility.

To the high percentage of our members who use their aircraft a significant amount of time for business transportation, congestion and delays represent a reduction of the airplane's utility, at the very least a major inconvenience; the competitive edge produced by the aircraft as well as the on-demand transportation capabilities are lost, thus its business value is substantially reduced.

Most AOPA members simply do not use the busiest airports in the major terminal areas for a wide variety of reasons. Yet, many do depend upon ready access to those areas for their livelihood and convenience. The increased congestion at the major airports in recent years has been a matter of growing concern for them.

The congestion difficulty in these areas may be traced directly to limited airport (runway) capacity. The inability of an airport to accommodate a number of aircraft per unit of time is by far the most important single cause of congestion, also the most difficult and time consuming to fix.

To illustrate this point, Chicago's O'Hare International Airport can accommodate up to 25 aircraft arrivals and 18 departures during a 15-minute period by using three runways for takeoffs and three for landings. In contrast, La Guardia can accommodate only 10 landings and takeoffs every 15-minutes using just two runways.

Lack of runway capacity is the result of a social decision of fifteen years standing to not significantly expand airports for environmental reasons. Coupled with this root problem is the unilateral decision by air carriers to use hub-and-spoke operations combined with unrestrained scheduling practices at major terminals.

Deregulation spawned a myriad of new carriers which have rushed to reap the benefits of a free market by grabbing the high volume routes centered at the large terminal areas. The right of the new carrier to operate in this manner and place unreasonable demands on an airport which exceed its capacity has been stoutly defended by liberal economists. But, their theories defy the reality of capacity limits.

Recently, general aviation has been singled out by a few as a cause of airport congestion and airline delays. Yet, the facts reveal that general aviation operations at five of the six busiest air carrier dominated airports actually have decreased between 10 and 46 percent since just prior to the 1981 air traffic controllers' strike. Furthermore, general aviation represents only 13.6 percent of the total operations at the 10 busiest air carrier-dominated airports in the U.S. and these operations are spread throughout the day, not concentrated during the airline created peaks. Clearly, general aviation is not the cause either of airport congestion or airline delays and elimination or reduction of general aviation operations will have little or no significant impact on the problem.

On the other hand, air carrier and commuter activity has grown dramatically at the major airports. Air carrier activity is up five percent, commuters up 47 percent yet general aviation activity is down 27 percent at the 22 pacer airports compared with precontroller strike levels of three years ago. More importantly, the air carriers regularly schedule arrivals and departures at up to 180 percent of airport capacity. While this is an extreme example, overscheduling by 50 percent above capacity limits during peak periods regularly occurs at major airports.

The existing airport capacity problems are the direct result of unrestrained scheduling practices by the airlines. The otherwise unregulated airline marketplace coupled with the hub-and-spoke concept has given rise to massive overscheduling at the major airports. These practices have clearly exceeded airport capacity in many cases.

There is obviously a finite capacity to any airport and when too many aircraft attempt to operate from it, congestion and delays are inevitable. In the near term, this situation can only be improved by reducing the number of air carrier operations during peak demand periods.

Better air traffic control technology and procedures may also afford mid-term improvements in capacity, if adequate runway capacity was available. Computer software to support sophisticated traffic management systems and more accurate radar may allow reduced lateral and longitudinal separation standards to be used to advantage in the terminal area. At best, however, these measures will only allow minor improvements to air traffic congestion.

Separate runways for commuters and general aircraft have also been recognized as a partial solution to airport capacity problems. These runways provide a high degree of operational flexibility for an airport at low cost without the siting and environmental problems encountered by air carrier runways. This fact has been ignored, in large part, by system planners in favor of possible gains in ATC system improvements which will prove largely illusory when implemented.

Until airport expansion and ATC system improvements can be implemented, the solution to terminal area congestion lies with realistically scheduling air carrier flights to realize absolute capacity limits during peak demand periods. Airline scheduling committees working freely without concern for antitrust considerations appears to offer the most attractive near term solution.

General aviation interests can help terminal area congestion by voluntarily avoiding affected areas to the maximum extent possible. This will require the cooperation of the FAA in advising general aviation users of potential problem areas so they can be avoided.

Additionally, general aviation operators can file IFR flight plans into congested areas as far in advance of the flight as practical to give the FAA flow control system sufficient advance notification to predict terminal area loading.

AOPA will encourage general aviation interests to utilize these measures to help alleviate terminal area congestion.

We appreciate the opportunity to participate in this hearing and to give our views on the subject.

GENERAL AVIATION MANUFACTURERS ASSOCIATION

STATEMENT OF EDWARD W. STIMPSON, PRESIDENT

Senator ANDREWS. Mr. Stimpson.

Mr. STIMPSON. Thank you, Mr. Chairman.

The general aviation industry stands ready to help relieve the air traffic congestion problems, but the problem is complex, and we need to put things in perspective.

First, nonscheduled operations at the six congested airports average under 10 percent; that includes the military, airline training flights, large cargo carriers, and others, in addition to business aviation.

Second, business aviation has an important and legitimate purpose in being at these airports. Business transportation, connection with the scheduled airlines, high priority cargo, and small package delivery, lifesaving medical transportation are some of the vital services that we provide.

The aircraft using these busy airports are well-equipped. Despite the vastly increased demand on mass air transportation, there will always be an important and valid need for smaller, more specialized air transportation in the traffic mix. Transportation links to smaller communities cannot be neglected.

Third, we want to help solve the problems cooperatively. A number of policy suggestions have been made to the FAA. For example, one of our members, a major publisher of flight information, will provide chart information to pilots to help avoid congested areas. Associations have pledged to communicate with users as we did during the PATCO period.

Excessive Government restrictions on general aviation are not the answer. We cannot go back to the general aviation reservation system, or GAR's, that was overkill. It hurt our industry, and it was unnecessary in many parts of the country.

What we can do is this, we can begin to increase system capacity. One important way is to increase emphasis on reliever airports. In fact, most general aviation operators would prefer to use reliever airports where first class facilities are available. Ironically, some of our best results are in Atlanta and Denver. The general aviation operations at hub airports are down significantly and reliever airport traffic is up.

Finally, and most importantly, let's enact the 1985 funding for the NAS plan. The recommendations by this subcommittee are excellent. We thank you and Senator Chiles for the efforts you have done in achieving these fine results. We just hope that the Congress will now pass them.

Any near-term Government-imposed medicine for air traffic headaches may provide temporary relief, but no cure. The cure is cooperation among airspace users and the Government, and the implementation of plans for systematic improvement and modernization of our airport/airway systems. Mr. Chairman, based on cooperation, the cure is capacity, and the relief is spelled f-u-n-d-i-n-g.

Thank you.

[The statement of Mr. Stimpson follows:]

STATEMENT OF EDWARD W. STIMPSON

The General Aviation Manufacturers Association welcomes this opportunity to testify before the Transportation Subcommittee on a subject of concern to the entire aviation community as well as our nation's air travelers -- aviation system delays.

General aviation is a major part of the air transportation system; it carries in excess of 100 million passengers a year in intercity travel. Many of these passengers are going to airports not served by the airlines, and a significant percentage of business flights to airline airports are for passengers to make connections with the airlines.

Mr. Chairman, some spokesmen have recently characterized "private aviation" in a manner suggesting indiscriminate and casual interference with "valid" air commerce. Despite the increasing mass transportation needs for airline travel, there will always be an important and valid need for high priority -- though smaller -- air transportation in the traffic mix.

Important business transportation, high priority cargo and small package service, and the life-saving efforts of medical air transportation reflect just a part of modern business aviation. And general aviation's role in preserving small community air service to larger cities is another important job in the post-deregulation era.

In short, more than 75 percent of all general aviation hours flown are for business and commercial purposes. That means general aviation is out there doing the nation's business, just as the airlines are.

In the opinion of the Federal Aviation Administration (FAA), the most acute problems today are concentrated in six major hub airports in the New York, Chicago, Atlanta and Denver metropolitan areas. The FAA's proposal to deal administratively with congestion at these busy facilities has triggered reactions from many segments of the user groups. We sense that most, if not all, of these elements are willing to work together to find solutions to this congestion. Although the FAA did a remarkable job following the PATCO strike, we are opposed to restrictions similar to the General Aviation Reservation (GAR) system. This system was "overkill;" it had a serious impact on our industry and was not necessary in many places throughout the country.

General aviation activity has decreased from pre-strike levels at five of the six busy airports under discussion. Only at Kennedy Airport is general aviation activity up, and there only by an insignificant 25 operations per day. Nonscheduled activity at these six airports averages less than 10 percent per day -- and this low amount still exaggerates general aviation's operations there because included are airline training flights, military flights, unscheduled large cargo operations, and others. But these nonscheduled flights serve a useful purpose, as does general aviation supporting high priority passengers and cargo, small package express services and emergency medical operations. As part of that 10 percent of unscheduled flights at these major airports, general aviation serves the public in many important -- but often unrecognized -- ways.

Let me emphasize, Mr. Chairman, that these reduced operations have been realized without any government appeal to the general aviation community. I can assure you that we are anxious to avoid these airport logjams, just as any motorist would go out of his way to avoid a four-mile backup at the Cabin John Bridge. If the FAA can advise us when and where the congestion occurs, we will do our part to avoid it. Our motivation will be reduced time delays and increased efficiency of operations.

GAMA's Airport/Airways and Operations Committee has met with the FAA and we have written to FAA Administrator Engen to volunteer our cooperation in helping to alleviate system delays attributed to other "bottlenecks." Certain high altitude sectors have been experiencing saturation conditions. If the FAA can identify these "red sectors," one of our member companies, which is the largest distributor of flight information in the world, has offered to publish this information in their flight publications, thus ensuring widespread dissemination. Other GAMA members will provide this information through their pilot training schools, aircraft sales outlets, FBOs and company publications. In addition, we will fully support the NBAA-proposed plan (called FASST) for avoiding high density areas.

Along with these efforts by our industry, it is important to educate the air traffic controllers to take advantage of the capabilities of modern general aviation aircraft. Most of the planes operating in the high altitude structure have RNAV capability enabling them to accept offset clearances which could clear airways for faster traffic. Exploiting this capability could help reduce enroute delays.

Now, I would like to return to the issue of airport congestion. Reliever airports are playing a significant role in alleviating hub traffic. For the last three years, our association, in cooperation with ATA and NBAA, has sponsored the reliever airport program. Richard Dinning, Vice President of USAir, has been the director of this program and has personally visited each major congested location on several occasions to promote reliever airport development. History has shown that relievers work. Two areas in which the most significant reduction in general aviation traffic have been made are in Denver and Atlanta. While traffic is down at both these metropolitan airports, the reliever airports have experienced significant growth. We would strongly recommend that the Administration and Congress give renewed emphasis to the reliever airport program, particularly examining nontactical, underutilized military bases which might help accommodate excessive traffic in major metropolitan areas.

This reliever airport program was started as a cooperative effort to provide needed transportation services by air carriers and general aviation to those communities facing congestion at major airports. Eliminating or severely restricting general aviation in those communities will not help the nation's air commerce needs, nor will it solve the problem. Rather, more emphasis on providing greater capacity and less emphasis on restrictive actions is required.

It should be apparent, however, that the system users acknowledge that they are all part of the overall problem and most of them, certainly, are willing to contribute to the solution. I believe they can act as quickly as FAA can to implement the changes necessary. Moreover, any self-imposed restrictions are preferable to government- mandated restrictions.

The near-term solutions to the congested airport problems are somewhat analogous to pain-killers: they provide temporary relief but do not effect a cure. The afflictions affecting our airport and airway system are many and complex. The prescription is the National Airspace System Plan and the National Plan for an Integrated Airport System which can deal with the safety and capacity limitations. This subcommittee has marked up the Department of Transportation Appropriations Bill with the prescribed level of funding for 1985, and we appreciate your personal understanding and support. We can only urge that you do everything possible to ensure that these levels are approved by the Congress so that our nation's ailing airport/airway system can recover fully and thus be prepared to meet its future demands. Failure to proceed invites continuing congestion and confusion.

In Summary

1. General aviation is a major mover of people and cargo carrying over 100 million people a year.

2. We will fully cooperate with the FAA, the airlines, and other users of the system to resolve air traffic delays. A number of steps can be taken on a voluntary basis by the

industry. New restrictions on general aviation will not solve the problem.

3. The only long term solution is increased capacity. The DOT Appropriations Bill now pending before Congress would provide a major step in this direction and failure to enact these funding levels invites continuing congestion, confusion and delays.

NATIONAL BUSINESS AIRCRAFT ASSOCIATION, INC.

STATEMENT OF ROBERT A. COOKE, VICE PRESIDENT OF OPERATIONS

Mr. COOKE. Mr. Chairman, we appreciate the opportunity to be here to present the views of the National Business Aircraft Association.

At the outset, let me make sure that you are aware that we are extremely concerned and we are taking our share of hits, if you will, on the delays and the congestion.

We believe this to be a longer term problem, and in my statement I have taken the opportunity to quote from the Congressional Record in 1968 where we show that discussions among the airlines were proceeding at that time. Pursuant to a CAB order, an agreement will be enforced on the effective date of the then high density rule, which was April 27, 1969. So we have a déjà vue here.

The FAA, in our view, with the active cooperation of airport authorities and the tacit approval of the majority of the aviation community has effectively been restraining the marketplace for those 15 years with the high-density rule.

We feel strongly that airport development has not proceeded to meet the growth that the Congress has called for. At the top of page 3, I quote from the Airport and Airway Improvement Act of 1982, where the Congress called for programs to meet the growth.

We feel that the greatest threat to growth, the zone of danger, if you will, lies in the enforced imposition of constraints on the capacity of the Nation's airspace and airport system, constraints that might derive from unwitting failure to execute growth plans or worse by Government desire. We feel a mind set has developed that the solution to this problem lies in constraints, and we deplore that.

Finally, I have offered, if you will, a shopping list of things that we believe the FAA and the Congress can act on immediately, and I am aware that the FAA is taking action on some of the items that I have mentioned.

Briefly, we recommend that they discard structured staffing; provide the information on the red sectors, those crowded parts of the airspace to the user; adjust the sectors; bring towers, air route traffic control centers, and the radar approach control centers into direct line authority to the Administrator; standardize en route separation; develop standards and implement simultaneous instrument approaches to intersecting runways; provide information on flow control to users; and stop the "smalltown sheriff" mentality on quality assurance programs.

For the Congress, we recommend that funds be provided to increase the controller work force by continuing high rates of training; retain existing controllers, retired and soon to retire; employ, as feasible, part-time controllers; and buy more radars if they are needed to approve simultaneous approaches to closely-spaced runways. Most importantly of all, we strongly urge uninterrupted full funding for the National Airspace System Plan.

We appreciate the opportunity to be here, and I am ready to respond to any questions.

[The statement of Mr. Cooke follows:]

STATEMENT OF ROBERT A. COOKE

Mr. Chairman and Members of the Subcommittee, my name is Robert A. Cooke and I am Vice President, Operations, National Business Aircraft Association.

The National Business Aircraft Association (NBAA) represents business aviation in the United States. Business aviation accounts for more than 30% of all general aviation activity, providing on-call air transportation to all of our nation's airports, and linking with the rest of the nation many communities which enjoy little or no air carrier service. NBAA's membership consists of more than 2,800 companies which own and operate aircraft of all sorts, turbojets, propeller-driven small airplanes and helicopters to satisfy the day-to-day transportation demands which active, productive corporations generate. Without our national business aircraft fleet, many of our nation's smaller communities would be out of the mainstream of American economic life, essentially cut off from the means of maintaining a highly productive national economy.

We welcome the opportunity to appear before you today to discuss options to shorten air traffic control delays.

At the outset, we wish to emphasize our extreme concern and frustration regarding delays in the airspace and the spectre of an arbitrary, discriminatory solution imposed by government in an attempt to allocate public resources such as airspace and airport access. The delay problems currently besetting all categories of operators derive from myriad sources over a lengthy period and will not be remedied by any one quick and dirty solution which might be contemplated by the Federal government.

In order to keep today's aviation system delays problem in a proper historical context, the following is quoted from the preamble to the adoption of the amendments to the Federal Air Regulation Part 93 (FAR Part 93) which imposed special limitations on certain high density traffic airports:

> "Long-run solutions are dependent upon the modernization and expansion of the airways system and airport development. Legislation

> is required to provide a sound financial framework within which these programs could move forward.
>
> In the meantime, the public interest in efficient, convenient, and economical air transportation requires more effective use of airport and airspace capacity. The authority of the FAA to regulate aircraft operations to reduce congestion is clear... It is anticipated that, subject to the approval of the Civil Aeronautics Board, the air carriers can arrive voluntarily at decisions to reduce schedules so as not to exceed the total allocation established... in the interest of efficient airspace utilization. Discussions among the airlines are proceeding pursuant to a CAB order, and an agreement will be in force on the effective date of April 27, 1969."
> (33 FR 17896, December 3, 1968)

The FAA, with the active cooperation of the airport authorities involved as well as the tacit approval of a majority of the aviation community, has been effectively restraining the marketplace for over fifteen years with its High Density Traffic Airport rules. By so doing, FAA has thereby been frustrating the will of Congress as delineated in the Airport and Airway Development Act of 1970, the 1976 Amendments thereto, the Deregulation Act of 1978 and the most recent Airport and Airway Improvement Act of 1982, in which Congress declared that:

> ...the continuation of airport and airway improvement programs and more effective management and utilization of the nation's airport and airway system are required to meet the current and projected growth of aviation... (emphasis supplied.)

NBAA has repeatedly asserted that the artificial allocation of airspace, known as "slots", through "High Density" rules, dating back to 1969 is still policy only because FAA has failed to execute plans to make air navigation facilities grow to meet the demands placed upon them, in order to create a truly free marketplace. We are pleased to quote ourselves, because we have been and continue to be correct in our thinking:

> "The greatest threat to growth...does not reside in seemingly adverse economic data or marketplace conditions which mirror the temporary state of the economy. The zone of danger lies in the

enforced imposition of constraints on the capacity of the nation's airspace and airport system, constraints which might derive from unwitting failure to execute bold plans, or worse, by government desire."

We are very concerned that any prospect of bold plans for the development of the airport and airway system are increasingly remote as a result of a mindset which has now been fully adopted in FAA and many other segments of our industry. That mindset is one which makes artificial constraints to aircraft movements business as usual; one which institutionalizes "demand management" and "flow control" to smooth the peaks in system demand; one which creates a new "scarce" resource for government allocation and then discriminates arbitrarily in that allocation, one which seeks to regulate aircraft operations to insure that there will be no ground delay to impact on ground facilities; a mindset which we greatly deplore as dissipative of energy and assets on pursuit of irrational regulation.

We strongly object to any further expansion of the allocation mentality and therefore urge the immediate rejection of those types of proposals. Instead of trying to cure delay through limitations in the distribution of airport access, FAA should devote its full energy to improving the capacity of all our nation's airports and its airspace system.

We strongly urge a break with the thinking of the past and a true rededication to the principle that the airports and airspace must be developed to fulfill the demands placed upon them by the nation's air travelers.

In other words, execute bold plans. For openers we urge immediate action on the following list of things the FAA can do:

1. Discard structured staffing.
2. Provide the information required and encourage the charting of saturated en route sectors (red sectors).
3. Adjust as necessary en route sectors to accommodate to the demands.
4. Bring ARTCC's, RAPCON's and ATCT's under direct line authority to Administration through AAT-1.

5. Standardize system en route separation criteria.
6. Develop standards and implement simultaneous instrument approaches to intersecting runways.
7. Provide information on flow control restrictions (flow control messages) to airway system users.
8. Stop "small town sheriff" mentality on Quality Assurance Program (QAP).

Additionally, Congress has the premiere role to play in providing solutions. Congress should:

1. Provide funds to:
    A. Increase the controller workforce by continuing high rates of training
    B. Retain existing controllers; retired and soon-to-retire
    C. Use more contract operators to man control towers
    D. Employ, as feasible, part-time controllers
    E. If additional, more accurate radar is required for approval of simultaneous approaches to closely-spaced runways, provide funds to allow for immediate procurement.
2. Most importantly, provide uninterrupted full funding for the National Airspace System Plan.

Regarding the last point, we commend this panel for the foresight it has had in attempting to appropriate the necessary levels in past years and especially its efforts on FY 1985 funding.

We can only hope that the Congress and the Administration can work closely in the days ahead to enact an appropriation providing the needed funding.

To further emphasize the importance of full funding from NASP, the following quote from Senator Howard Baker's insertion in the Congressional Record of September 5, 1984, is noted:

> "Our National Airspace Plan is revolutionizing air traffic control. It will improve flight safety and double the nation's flight capacity, providing better air service and stimulating economic growth."

I appreciate the opportunity to have presented these views and will gladly attempt to answer any questions the committee may have.

LOOKING AT PROBLEMS ON A PRIORITY BASIS

Senator ANDREWS. Gentlemen, we appreciate your cooperation.

What we are trying to do is get a program that we can put together and recommend to the FAA, along with the appropriate funding to get it handled. It doesn't take much to recognize that we have a problem in our aviation system delays. So that we are doing something about it, and not just talking about it, we have to prioritize where the problem is. We talked about weather, mechanical problems, travel volume, airspace capacity, and runway congestion, and all the rest, including increased hubbing and the personnel in the tower.

On a priority basis, would you gentlemen feel that the problem is more airport capacity, runway capacity, or is it airway capacity? Where do we get some definitive assessments of this so that we can start sorting through where the congestion is?

I sit on the runway for 2 hours-plus. The pilot tells me we are sitting there because a center 200 miles to the west is plugged up. That would indicate that it is not the runway, it is the center. Other people tell us that it is the runways. We are trying to get answers. We have a broad spectrum of people in this business, so we try to get answers from them.

Mr. BAKER. I don't think that is the case, Mr. Chairman. The reason is, going to the Cleveland Center area, for instance, where you are held is because Chicago can't accept you, not because there isn't enough capacity in the en route system to handle you.

Senator ANDREWS. But I am not going to Chicago.

Mr. BAKER. But you are going through that airspace, chances are, and the traffic that is being held waiting to get into Chicago, or Minneapolis, or any of the other major airports, is usually the problem. There is very little en route delay occasioned by en route shortage of capacity. To address the problem from that perspective is just to kid yourself.

One of the major complaints we had about the 1982 act was that we are not fixing the problem. We can automate the en route system all we choose, but unless we do something about the runway acceptance rate and capacity in the hubs, the problem is still going to be there.

The reason you take a hold on the ground in Minneapolis or in Dallas is because the airport at the other end is not going to be able to accommodate you at the time you want to arrive, and that is because of the irrational scheduling, which is an economic problem and has nothing to do with anything else.

Senator ANDREWS. Would you back up just a little bit. You say, the airport at the other end at which you are going to arrive doesn't have the capacity. It is not that you are going through an airspace that does not have the capacity. In your judgment that airspace has plenty of capacity, it is the airport that is your ultimate destination.

Mr. BAKER. With limited exceptions, that is right. I don't think there is any question about that to anyone that would apply any insight. Based on the years I spent in the FAA, as well as the 450 to 500 hours a year I fly in the system, I am very comfortable that that is the case.

The service that we are getting from the en route portion of the air traffic system is better now than it has ever been in every regard.

Senator ANDREWS. Mr. Stimpson, do you have any comments?

Mr. STIMPSON. I think it is both, Mr. Chairman. In some cases, it is obviously airport capacity, when you have x number of airplanes wanting to get in a certain airport at a certain time. In other areas of the country, it seems to be an air spacing as well. I think that it is both, and I think we have to attack them both, both the en route and the airport capacity, both in the short term and in the long term.

Senator ANDREWS. In other words, you feel that there is a problem with en route capacity as well as runway capacity.

Mr. STIMPSON. In certain cases it appears to be. I think it is less of a problem than you do at the key hours. If you want to go to one of the major airports at 11 o'clock in the morning there is no great problem, and at other peak hours there are problems.

Mr. COOKE. Mr. Chairman, I share your uncertainty. I think that our toughest problem is getting a hand on where and what the delays are and the causes thereof. There is much missing information flying around as there is information.

Senator ANDREWS. Sure, they are telling us that there are more thunderstorms this summer than in the past summer. We had a little bit, but I don't think enough to cause an 80 percent delay factor. They have identified every bogeyman that could possibly come up out there. What we are trying to do is get those of you with the technical expertise to identify rationally where these bogeymen are.

NEED TO IDENTIFY RED SECTORS

Mr. COOKE. We are chasing the bogeymen. We have asked the FAA to identify for us what are referred to as the "red sectors." In other words, those little sections of the airspace, the en route airspace, that are in fact saturated or overflowing, if you will. It is hard information to come by.

Senator ANDREWS. Do you feel there are these red sectors?

Mr. COOKE. Senator, I have been told that there are red sectors, but I don't know where they are. We can counsel, if you will, people to avoid them, but it is hard to do if you can't identify them. I don't know if they change from day to day in real time, or if in fact the red sector is a fixed red sector for a period of months. These are uncertain.

Senator ANDREWS. But, in your perception, you feel that there are certain areas in the country's airways, not on the ground but in the airways, that are over-congested and deserve the name "red sector."

Mr. COOKE. Let me say that I have had reports that, for example, Cleveland en route airspace is troublesome. It is overcrowded and delays result. Delays are reflected through the departure airports.

Senator ANDREWS. That would be the delays from New York, Washington, and Baltimore heading west?

Mr. COOKE. Yes; that would suffer the delays, or heading east. I don't have an answer to your question. As I said, I share your uncertainty as to actually where the problems are.

We can look at airports like LaGuardia, where you can observe the airport over a period of days, and you can see that there are certain physical constraints to the moving of airplanes at that airport that will always be there. If a conga line of six or seven airplanes develops, that traffic will have to be moved and that is going to cause delays to the airplanes adjacent to that airport.

The answer to the question is, probably, yes, both parts of the system.

Senator ANDREWS. You see the question that we have. Senator Chiles takes off from National heading for Tampa. Tampa isn't really all that congested, but his plane is held up at Washington National. I take off from Washington National heading nonstop for Minneapolis. Minneapolis isn't really all that congested. It has a couple of runways, and it is in pretty darn good shape.

Are those planes heading for Tampa, a relatively uncongested airport, or Minneapolis, a relatively uncongested airport, actually being held up because of congestion at the destination airport, or because of congestion in the airways through which they must pass?

Mr. COOKE. I don't know.

Mr. STIMPSON. I don't know that we can answer that. Administrator Engen can probably speak to that better than we can.

Senator ANDREWS. I know, I am just trying to set Administrator Engen up, you know. [Laughter.]

I want to find out what you have to say before Administrator Engen comes on board. That is why he is there in the audience listening, because this is a learning session for all of us.

Mr. STIMPSON. We have been told that it is both. As Mr. Cooke said, we have been told that there are certain sectors in en route system. In my testimony, I mentioned that we would gladly publicize these sectors and urge pilots and operators to stay out of them if we knew where they were. We don't know where they are. We have been told that Cleveland is one, and some other places. This is the type of cooperation that we can work with FAA if we can identify some of these areas which may be overloaded at certain times.

Senator ANDREWS. In other words, somewhere in the airspace over this country there are a number of Bermuda Triangles. We are not sure where they are, but they are out there someplace.

Mr. STIMPSON. That is why it is a complex situation. It is not identifiable, at least to us, very easily, except that when you are sitting on the ground, you know you have a problem.

Senator ANDREWS. I notice John Baker is shaking his head.

DELAYS CAUSED BY SCHEDULING PRACTICES

Mr. BAKER. I have some data that was prepared on 15-minute increments on scheduling out of the various airports under discussion here. If you will look, and I am sure that from this range it is tough, but there are aberrations here that run 150 percent of capacity of the airport. Under any circumstances, you couldn't get any more airplanes out. So we are starting the day out with hours and hours of delays because of the scheduling practices.

The red sectors of airspace are almost without exception terminal airspace problems, not en route airspace problems. Again, I am out in the system a lot flying, and I fly high altitude sectors, and I am unaware of a delay that I have taken in the last 2 years because of an en route problem or a reroute, which before the strike was regular. I just don't think that is the problem.

The delays and the red sectors, or sectors that are saturated, are in terminal areas because you have to do something with those airplanes until you can land them, and that is the problem.

They back up in the hub areas, then they start pushing the backup back, and that is where Cleveland gets in trouble when there is bad weather in Chicago, or bad weather in Minneapolis, and they can't accept the airplanes at the rate they normally do. You start holding airplanes in every holding fix from here to Chicago.

Indeed, coming in this direction before the strike, you oftentimes would be holding at Bel Air in Ohio waiting to get into Washington National. It had nothing to do with the weather or the capacity of the air traffic system in Bel Air, Ohio. It had to do with the fact that there were low ceilings at Washington, and because of the cockamamy approach in there, the acceptance rate is very low. That is where these delays come from, and that is where the saturation comes from.

Cleveland gets everything from the northwest going into Boston, New York, Washington, and Philadelphia, and that is where the congestion comes from, when they start pushing back from the terminal. I think to focus heavily, at least, on the en route portion of this thing, we are missing the problem. I think that is fine-tuning.

Mr. STIMPSON. I think Mr. Baker makes a very significant point. The system is working very, very well in most parts of the country. There are operators who report to us that they are operating without problem every day, and in many areas without delays also.

Senator ANDREWS. Senator Chiles.

Senator CHILES. I have no questions.

Senator ANDREWS. Thank you, gentlemen. We appreciate your coming.

We are now fortunate to have our distinguished colleague from New Jersey, Senator Lautenberg, here, who wants to call to the attention of the committee a problem that affects his area.

CONGRESSIONAL WITNESS

STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM NEW JERSEY

Senator LAUTENBERG. I do appreciate, Mr. Chairman, the opportunity to appear before the subcommittee this morning, and before my distinguished colleague from Florida as well. Your interest in reviewing the cause of delays in our air transportation system is most timely, obviously.

Yesterday's New York Times carried what was for me a rather alarming headline. It read: "FAA suggests fewer takeoffs from Newark: Favors more at Kennedy and at LaGuardia."

Mr. Chairman, I find it incongruous that the FAA should propose that Newark Airport bear the brunt of future restrictions in the New York area. For some time now, Newark Airport has been treated as the ugly sister of the three area airports.

I used to serve on the Port Authority as a Commissioner of the New York-New Jersey Port Authority, and we had the jurisdiction over these airports, including the major general aviation airport, and I know the situation very well.

Since the advent of deregulation and the designation of Newark by People Express as its hub, the airport has experienced a great resurgence. With the opening of a new $150 million international terminal, Newark Airport is providing expanded, frankly critical service to our area. It is a growing asset, and a crucial asset to New Jersey's economy. I am greatly concerned that the outcome of the current discussions by the FAA and the airlines might well spell an end to this growth.

Airport delays have reached horrendous levels and are causing inconvenience to air travelers. However, I have yet to see a satisfactory accounting—I was interested in what was being said before by the previous panel—as to why these delays are occurring, and what the best response to them is.

This is the first peak travel season we have had without restrictions that flowed from the 1981 air traffic controller strike. Air travel is up. The weather has been terrible. Deregulated airlines are competing for passengers and trying to provide service when their customers want to and often need to fly. There has been a bunching of scheduled takeoffs at peak hours, and this has rendered flying schedules confusing, if not meaningless.

General aviation, a very important service to the business community, nevertheless accounts for one-third to one-half of the traffic at the top

50 airports and compete with commercial air service to the general public.

In sum, the airlines, obviously, have a problem, they ought to solve it. If they want to do the right thing by their customers, they can and they will. This is a preferable alternative to blanket reregulation of airline access to airports during peak travel hours.

POSITIVE EFFECTS OF DEREGULATION

Deregulation has been a positive development for my State. Those traveling for business and pleasure in the region have access to low-cost air transportation at Newark Airport.

I am sensitive, Mr. Chairman, to the adverse impacts deregulation has had on some of the rural areas, an issue raised often by you, Senator Andrews. I have supported efforts by members of the Senate Commerce Committee to address those problems. But, deregulation has been good for New Jersey, and for Newark Airport.

What does the FAA proposed rulemaking mean for Newark Airport? And on what grounds has it been justified?

The FAA's own projections of the number of flights Newark Airport can handle per hour under the worst conditions is 90. The proposed guidelines call for us to be operating at 68. In contrast, Kennedy can handle 90 flights under optimum conditions, and the guidelines call for 90 at peak hours. Why is there such a differential?

I have not seen any justification for this proposal, which clearly puts Newark Airport at a competitive disadvantage with LaGuardia and Kennedy Airports. There are a number of alternatives to such drastic restrictions on airport usage which certainly should be explored before implementing the FAA's plan.

Questions also rise about the accuracy of the FAA's data base. According to the Times' report, the FAA maintains that Newark is handling 100 departures per hour. The Port Authority of New York and New Jersey, which runs the airport, indicates the number is more like 40.

We are not just dealing here with a timing issue. The FAA is proposing to allocate economic benefits to various airports and airlines. If the airlines have developed inefficient scheduling policies which result in delays and inconvenience to the public, they ought to straighten that problem out. We should give them a chance and see what can be accomplished.

CONCERN OVER FIERCE COMPETITION BETWEEN CARRIERS

I am most concerned that under the guise of solving the problem of flight delays, what we are actually going to see is a round of fierce competition between carriers, with some of the parties using the threat of Government reregulation to gain competitive advantage.

The FAA should get about the business of getting the air traffic control system back to prestrike levels. For my part, I feel that the public has suffered enough from the administration's refusal to rehire PATCO members who were fired.

The President has made his point, the controllers and their families have suffered, but so has the traveling public. Even a felon who pays a price for his misdeed is often able to return to his profession.

Again, the public is paying the price here. New recruits to the system cannot be expected to perform up to the abilities of qualified and available controllers and it is time that we relent in this punishment.

RECOMMENDED ACTIONS THE FAA COULD TAKE

In summary, Mr. Chairman, there are a number of actions that the FAA can take in concert with the Port Authority of New York and New Jersey and the airlines that serve the Newark Airport short of cracking down on its growth by reregulating the airlines via flight restrictions.

I have mentioned voluntary steps that the airlines can take, and rehiring experienced air control personnel is one of them. Other options have been discussed that include improvements in air space management, expansion of airport capacity, and a reconsideration of general aviation access during critical hours.

All of these should be explored before imposing anticompetitive flight restrictions. Flight restrictions, should they come into being, will have a profound effect on economic competition between airlines, an outcome which is inappropriate in a deregulated marketplace.

Mr. Chairman, I would ask that the committee's consent to insert into the record a telegram from the Port Authority of New York and New Jersey on the FAA's conduct of discussions with the airlines under antitrust immunity.

I thank you, Mr. Chairman, for this opportunity.

Senator ANDREWS. Without objection, we will insert that material.

[The statement of Senator Lautenberg and the telegram follow:]

STATEMENT OF SENATOR LAUTENBERG

MR. CHAIRMAN, I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOUR SUBCOMMITTEE THIS MORNING. YOUR INTEREST IN EXAMINING DELAYS IN OUR AVIATION TRANSPORT SYSTEM AND DEPARTMENT OF TRANSPORTATION PROPOSALS TO ADDRESS THEM IS MOST TIMELY.

YESTERDAY'S NEW YORK TIMES CARRIED WHAT WAS, FOR ME, A RATHER ALARMING HEADLINE. IT READ:

> F.A.A. SUGGESTS FEWER TAKEOFFS FROM NEWARK:
> FAVORS MORE AT KENNEDY AND AT LAGUARDIA

MR. CHAIRMAN, I FIND IT INCONGRUOUS THAT THE FAA SHOULD PROPOSE THAT NEWARK AIRPORT BEAR THE BRUNT OF FUTURE RESTRICTIONS IN THE NEW YORK AREA. FOR SOME TIME, NEWARK AIRPORT HAS BEEN TREATED AS THE UGLY SISTER OF THE THREE AREA AIRPORTS. SINCE THE ADVENT OF AIRLINE DEREGULATION AND THE DESIGNATION OF NEWARK BY PEOPLE EXPRESS AS ITS HUB, THE AIRPORT HAS EXPERIENCED A RESURGENCE. WITH THE OPENING OF A NEW $150 MILLION INTERNATIONAL TERMINAL, NEWARK AIRPORT IS PROVIDING EXPANDED AND CRITICAL SERVICE TO THE NEW YORK-NEW JERSEY METROPOLITAN AREA AND IS A GROWING ASSET TO NEW JERSEY'S ECONOMY. I AM ENORMOUSLY CONCERNED THAT THE OUTCOME OF THE CURRENT DISCUSSIONS BY THE FAA AND THE AIRLINES MIGHT WELL SPELL AN END TO THIS GROWTH.

AIRPORT DELAYS HAVE REACHED SIGNIFICANT LEVELS AND ARE CAUSING INCONVENIENCE TO AIR TRAVELLERS. HOWEVER, I HAVE YET TO SEE A FULL ACCOUNTING AS TO WHY THESE DELAYS ARE OCCURRING AND WHAT THE BEST RESPONSE TO THEM IS.

THIS IS THE FIRST PEAK TRAVEL SEASON WE HAVE EXPERIENCED WITHOUT THE RESTRICTIONS THAT FLOWED FROM THE 1981 AIR TRAFFIC CONTROLLERS STRIKE. AIR TRAVEL IS UP. THE WEATHER HAS BEEN BAD. DEREGULATED AIRLINES ARE COMPETING FOR PASSENGERS

AND TRYING TO PROVIDE SERVICE WHEN THEIR CUSTOMERS WANT TO FLY. THERE HAS BEEN A BUNCHING OF SCHEDULED TAKE-OFFS AT PEAK HOURS AND THIS HAS RENDERED FLY SCHEDULES CONFUSING, IF NOT MEANINGLESS. GENERAL AVIATION NOW ACCOUNTS FOR A THIRD TO A HALF OF THE TRAFFIC AT THE TOP FIFTY AIRPORTS, COMPETING WITH COMMERCIAL SERVICE TO THE GENERAL PUBLIC. IN SUM, THE AIRLINES HAVE A PROBLEM. THEY SHOULD SOLVE IT. AND, IF THEY WANT TO DO RIGHT BY THEIR CUSTOMERS, THEY WILL. THIS IS A PREFERABLE ALTERNATIVE TO BLANKET RE-REGULATION OF AIRLINE ACCESS TO AIRPORTS DURING PEAK TRAVEL HOURS.

DEREGULATION HAS BEEN A POSITIVE DEVELOPMENT IN NEW JERSEY. THOSE TRAVELING FOR BUSINESS AND PLEASURE IN THE REGION HAVE ACCESS TO LOW-COST AIR TRANSPORTATION AT NEWARK AIRPORT. I AM SENSITIVE TO THE ADVERSE IMPACTS DEREGULATION HAS HAD IN RURAL AREAS -- AN ISSUE RAISED OFTEN BY YOU, SENATOR ANDREWS. I HAVE SUPPORTED EFFORTS BY MEMBERS OF THE SENATE COMMERCE COMMITTEE TO ADDRESS THOSE PROBLEMS. DEREGULATION HAS BEEN GOOD FOR NEW JERSEY AND FOR NEWARK AIRPORT.

WHAT DOES THE FAA PROPOSED RULEMAKING MEAN FOR NEWARK AIRPORT? AND ON WHAT GROUNDS HAS IT BEEN JUSTIFIED? THE FAA'S OWN PROJECTIONS OF THE NUMBER OF FLIGHTS NEWARK AIRPORT CAN HANDLE PER HOUR UNDER THE WORST CONDITIONS IS 90. THE PROPOSED GUIDELINES CALL FOR 68. IN CONTRAST, KENNEDY CAN HANDLE 90 FLIGHTS UNDER OPTIMUM CONDITIONS AND THE GUIDELINES CALL FOR 90 AT PEAK HOURS.

WHY IS THERE SUCH A DIFFERENTIAL HERE? I HAVE NOT SEEN ANY JUSTIFICATION FOR THIS PROPOSAL, WHICH CLEARLY PUTS NEWARK AIRPORT AT A COMPETITIVE DISADVANTAGE WITH LAGUARDIA AND KENNEDY AIRPORTS. THERE ARE A NUMBER OF ALTERNATIVES TO SUCH DRASTIC RESTRICTIONS ON AIRPORT USAGE WHICH SHOULD CERTAINLY BE EXPLORED BEFORE IMPLEMENTING FAA'S PLAN.

Questions also rise about the accuracy of FAA's data base. According to the Times report, the FAA maintains that Newark is handling 100 departures per hour. The Port Authority of New York and New Jersey, which runs the airport, indicates the number is more like 40.

We are not just dealing here with a timing issue. The FAA is proposing to allocate economic benefits to various airports and airlines. If the airlines have developed inefficient scheduling policies which result in delays and inconvenience to the public, they ought to straighten the problem out. We should give them a chance, and see what can be accomplished. I am most concerned that under the guise of solving the problem of flight delays, what we're actually going to see is a round of fierce competition between carriers, with some of the parties using the threat of government re-regulation to gain advantage.

The FAA should get about the business of getting the air traffic control system back to pre-strike levels. For my part, I feel the public has suffered enough from the Administration's refusal to rehire PATCO members who were fired. The President has made his point, the controllers and their families have suffered, and so has the traveling public. New recruits to the system can not be expected to perform up to the abilities of qualified and available controllers and it's time the Administration recognizes that.

In summary, Mr. Chairman, there are a number of actions the FAA can take in concert with the Port Authority of New York and New Jersey and the airlines that serve Newark airport short of cracking down on its growth by reregulating the airlines via flight restrictions. I have mentioned voluntary

STEPS THE AIRLINES CAN TAKE, AND REHIRING EXPERIENCED AIR TRAFFIC CONTROL PERSONNEL. OTHER OPTIONS THAT HAVE BEEN DISCUSSED INCLUDE IMPROVEMENTS IN AIR SPACE MANAGEMENT, EXPANSION OF AIRPORT CAPACITY, AND A RECONSIDERATION OF GENERAL AVIATION ACCESS. ALL OF THESE SHOULD BE EXPLORED BEFORE IMPOSING ANTI-COMPETITIVE FLIGHT RESTRICTIONS.

FLIGHT RESTRICTIONS, SHOULD THEY COME INTO BEING, WILL HAVE PROFOUND EFFECT ON ECONOMIC COMPETITION BETWEEN AIRLINES, AN OUTCOME WHICH IS INAPPROPRIATE IN A DEREGULATED MARKETPLACE.

MR. CHAIRMAN, I WOULD ASK THE COMMITTEE'S CONSENT TO INSERT INTO THE HEARING RECORD A TELEGRAM FROM THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY ON THE FAA'S CONDUCT OF DISCUSSIONS WITH THE AIRLINES UNDER ANTI-TRUST IMMUNITY.

THANK YOU, MR. CHAIRMAN.

Telegram From Robert J. Aaronson, Director of Aviation, the Port Authority of New York and New Jersey

September 6, 1984

Honorable Donald Engen
Administrator
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, D.C. 20591

The Port Authority of New York and New Jersey takes strong exception to a reported FAA proposal, attributed in published reports today to Ed Faberman, Acting Chief Counsel, to set a limit on Newark Airport of 68 total arrivals and departures per hour.

Based upon the current level of peak hour operations at Newark and preliminary studies, such a limitation appears to be very low and, as recommended in the comments which we filed on FAA's NPRM on the elimination of airport delays, in Docket 24206, any capacity determination should be made after a full evaluation of all available data and after consultation with the airlines and the Port Authority.

The New York Times today quotes the FAA as saying that "Newark now schedules more than 100 departures in some hours." According to published schedules the maximum departures for a Friday in July were 40.

The bulk of the current problem, other than unusually bad weather, is airspace management. The FAA must reconfigure air traffic control system operations including reducing remaining limitations in order to increase airport operations at the critical airports.

The Port Authority also supports the present airline effort to spread out schedules to minimize delays. Any FAA measures which may be necessary at this time should be short-term and temporary and should not reduce total airline operations at any of the critical airports. For the long term the FAA has the obligation to rebuild and expand the capacity of the nation's air traffic control system.

In the complex environment in which improvements in current conditions must be considered, it is essential that the solutions be developed through joint efforts by the FAA, the airlines, and the impacted airports. I seek your confirmation that the Port Authority, as the operator of three of the critical airports, will be immediately brought into this process as a full participant.

Robert J. Aaronson
Director of Aviation
The Port Authority of
New York and New Jersey

FAA SHUTTING DOWN ACCESS CAPACITY AT NEWARK

Senator ANDREWS. Senator, we appreciate your contribution.

In listening to your presentation, I can't help but think how it differentiates from the presentation of the three on the panel who were just here. In fact, we seem to get more and more into Alice in Wonderland through the Looking Glass kind of situation.

You are telling us that the FAA is shutting down access capacity at an airport that has that capacity.

Senator LAUTENBERG. It has the capacity.

Senator ANDREWS. We were just told by three of the leaders in air traffic capacity that the problem is more on the ground than it is in the airspace.

Given what they say, you would think that the FAA would be saluting Newark for making slots available so the planes that would like to take off from Chicago heading east, or from the south heading north to the New York area, would have additional places to land if, indeed and in fact, the congestion is not in the airspace but in the landing sites.

Senator LAUTENBERG. I didn't hear enough of it, I can see that by your summary, Mr. Chairman, because obviously we would be in some disagreement.

Again, I had experience with those airports before I came to the Senate, and Newark is now completing its third major terminal so that we have gate access. It is my understanding that there is the runway capacity to deal with this. The taxiways are sufficient. Newark is a very efficient airport, so are, by the way, LaGuardia and Kennedy. The question is whether we are able to handle the traffic in the air, whether or not we are bunching closely enough in the air.

Yes; the weather has been a problem. I know as a first-hand sufferer, I can tell you, because I fly in and out of the area a lot. For you, traveling the distance that you do, the delay is no less unpleasant. But relative to the time you are in the air, very often you will have been delayed substantially less than the local traveler who goes from here to the New York region and sits in the airport for an hour, or sometimes on the airplane for an hour waiting to travel 50 minutes in the air.

So we have experienced enormous delays, way beyond anything that anyone could have foreseen, and I think that there are a number of factors that have to be included. I don't think the major problem is handling the aircraft on the ground.

Again, Newark is expanding, it has additional capacity and that capacity is not used. I can tell you this, one of the biggest problems in our region is the automobile traffic getting to and from Kennedy Airport. A lot of people miss their flights, no matter how late the flights are, because they can't get to it. That is the nature of the growth in our area.

This is our responsibilty, we here in the Congress, as well as the professionals in the business. Our country was built based on quick and efficient transportation systems. Air travel has become mass transit in the pure sense of the word. We have to work to improve that, not to cut it back. Peak travel is caused by people having to travel at those times.

Senator ANDREWS. Thank you, Senator, we appreciate your contribution.

NONDEPARTMENTAL WITNESSES

Regional Airline Association

STATEMENT OF DUANE EKEDAHL, PRESIDENT

ACCOMPANIED BY ALAN STEPHEN, VICE PRESIDENT FOR OPERATIONS

Senator Andrews. Our next witness is Duane Ekedahl, the president of the Regional Airline Association.

It is good to have you here, Mr. Ekedahl. Let me assure you that your statement will appear in the record in its entirety. You may summarize it in any way you want.

Mr. Ekedahl. Thank you, Mr. Chairman.

I am Duane Ekedahl, representing the nearly 120 regional commuter airlines that provide the short-haul service to the small communities of the Nation.

I will summarize the statement and submit the formal testimony for the record. With me is Alan Stephen, our vice president of operations. We appreciate the opportunity to be here to discuss the very serious problem of air traffic delays and the status of the air traffic control system.

Since the strike of the air traffic controllers 3 years ago, remarkable success was achieved in maintaining the safety and efficiency of the system. This came about through a cooperative effort between government and industry. Regional airlines have certainly done their share to this end.

At the impacted airports, we have fully complied with the interim operating plan. In many cases and at great pain, our airlines have curtailed their expansion plans, and cut back their operations to make the system work during this difficult period.

Implied during this period was the notion that the system would be rebuilt as soon as possible to fully realize its capacity. Further, that it would be modernized to accommodate the normally expected growth in passenger demand for air service that would occur over the years. Now we find that the airlines appear to be singled-out as the cause of the growing delays which threaten to imperil the scenario before us, and we would suggest that that is inaccurate and incomplete.

The FAA has proposed a virtual minute-by-minute control of takeoffs and landings at certain airports, and this predictably has caused great concern among the airlines, because it is impractical in its application and has severe ramifications for airline scheduling. We think there is a better approach to get at the problem, and it is two-pronged.

First, to accurately assess the impact of all users of the system on the problem and have all segments participate in the solution accordingly.

Second, we feel there are steps that the FAA can take to enhance capacity that would affect the short-term problem of delays that we now face, and that these would not in any way sacrifice the safety of the system. They point in two directions. One toward the rebuilding of the system following the strike and, two, adjustment in the air traffic control procedures.

There have been several industry groups which have met in recent months. One a very high level FAA task force group that have made very specific recommendations to the FAA for action that would help relieve these delays. From the standpoint of the regional airlines, there are a couple of these that I would like to mention here.

One, separate access procedures at hub airports, such as tower en route and the use of stub runways; two, revises in trail and altitude separation standards; three, authorization of limited and reasonable inflight holding; and four, expeditious bringing of the air traffic control staffing to authorized levels.

Let me conclude this summary with one final point. It certainly is clear that Congress also has an important role in this problem, particularly over the long term. It is indeed imperative that the National Aviation System Plan be fully funded at levels authorized in 1982, and as requested by the administration. Unfortunately, that has fallen behind. Unless these levels are reached, there is little chance that the problem we are discussing here today will not be with us at increased levels in the coming decade.

With that, Mr. Chairman, my summary is concluded and we will be happy to address any questions that you have.

[The statement of Mr. Ekedahl follows:]

STATEMENT OF DUANE EKEDAHL

I am Duane Ekedahl, President of the Regional Airline Association. On behalf of our nation's short haul regional and commuter airlines, I appreciate this opportunity to appear before this Committee to discuss the current status and future needs of the Air Traffic Control system as it relates to the very serious problems of air traffic control delays.

Since the illegal air traffic controller's strike on August 3, 1981, the regional airlines, like other users of the nation's air traffic control system, have taken extraordinary measures to limit flight activity in order to maintain ATC system safety and efficiency. We recognized then, as we do now, that rebuilding the ATC system to its pre-strike capacity would be a time consuming and difficult process.

Unfortunately, the remarkable success achieved over these past thirty-seven months, success achieved through cooperative government and industry efforts, is now imperiled by growing air traffic congestion and the resulting air traffic delays and the possibility of even more controls over ATC use. Even as I testify today, the nation's airlines are meeting here in Washington under antitrust immunity in an attempt to agree upon adjustments to their flight schedules in order to reduce air traffic activity. If these meetings prove unsuccessful, the FAA proposes to impose sweeping new regulatory authority by which it would assign both minute by minute arrival and departure times to the airlines operating at selected major airports throughout the country.

What are the reasons for this congestion problem?

Some attribute the delays to airline scheduling practices which "peak" or "bank" flights at specific times of the day, a practice largely brought on by deregulation and passenger travel preferences. Others note that general aviation and the military, while not being major users at hub air carrier airports, are nonetheless important elements of the overall ATC workload at both enroute centers and terminal facilities. Still others cite the shortage of airport runways, ramps and terminals. And of course, many question whether the FAA has been as vigorous in implementing its post strike recovery plan as it might be in rebuilding ATC system capabilities.

Who or what is at fault is no longer relevant. We all share a responsibility to improve the current situation and to press on in developing our important national airport and airways resources for the future. Unfortunately, it appears that our government intends to rely largely on the airlines to bear the burden of limited air traffic capacity by imposing a growing number of restrictions on flight operations through the use of demand management and flow control delays. We can no longer accept such restictions on the promise that things will improve "in the future." We expect the government to make sound and substantial commitments to not only "look" at improvements in air traffic control and airport capacity and efficiency, but to act in a timely, safe and responsible manner to implement the ATC modernization program and to bring the system up to its full capability. To this end, I believe a number of initiatives should be undertaken now. Most of these initiatives have been identified by the RAA and other members of the FAA/Industry Think Tank which met in mid-July here in Washington. I would like to re-emphasize and supplement a few of these recommendations here today.

First, I believe the FAA should develop a plan of action based upon the recommendations of various groups of aviation experts such as the FAA/Industry Think Tank, National Airspace Review, and the Airport Operators Council International's Airport Capacity Improvement Task Force. This plan would create a fast track for system capacity and efficiency improvement. In addition, the FAA should concentrate its resources to bring these improvements online as quickly as safety validation will permit.

More specifically, I believe significant system capacity improvements, and therefore delay reductions, could be achieved through the development and implementation of additional procedures to better segregate regional and commuter air carriers from the airspace and runway demands of the major airlines operating turbojet aircraft. Also, improvements must be made in the quality and timeliness of the FAA's flow management programs. These programs must be designed to respond to discrete forecast and actual weather conditions. In addition the flow management programs must be more selective in identifying and responding to real-time ATC system constraints.

As an adjunct to this plan, the FAA should develop a timetable for the discussion and implementation of solutions for other ATC concerns. Topics for these discussions should include personnel management issues such as controller manning levels, retention, training, morale and workload.

Second, the FAA should review and publish its regulatory objectives and policies which place operational and economic burdens upon the users of the national airspace system. If the FAA's objectives are to foster air commerce and to provide the necessary services to support the needs of the nation's air carriers and the American public then its regulatory policy should consistently reflect these priorities. For instance, the FAA's proposed rule to apportion airline schedules would impose rigid controls over all air carriers operating at six major hub airports including those carriers which make very limited use of these airports. This type of rulemaking fails to differentiate the assignment of delay based upon cause and is an unfortunate shotgun approach to problem solving. Additionally, as we have seen from the failure of the airline scheduling committees, the introduction of proposals to permit the buying and selling of airport access invite progressively more insidious regulations and government controls which may threaten the many public benefits of airline deregulation. Government policy on these and other critical economic issues remains obscure.

Lastly, Congress must fully fund the National Aviation System Plan at the levels authorized in the 1982 legislation and as requested by the Administration. Unfortunately, we have already fallen hundreds of millions of dollars behind in the needed funding levels and unless funding for Fiscal Year 1985 is appropriated at the higher levels proposed, the National Aviation System Plan will be in serious jeopardy and delayed beyond its useful implementation. Again, this critical budget item must have the highest funding priority to guarantee the integrity of a national air transportation system in the United States.

This concludes my prepared statement. I will be pleased to answer any questions you may have at this time.

NEED TO EXAMINE DELAYS AT INDIVIDUAL AIRPORTS

Senator ANDREWS. Thank you very much, Mr. Ekedahl.

Let me ask you essentially what I asked the last panel. Do you feel that the congestion is more because of the lack of runway capacity on the ground, or a lack of airway capacity in the sky?

Mr. EKEDAHL. It is clearly both. Your experience coming out of National, I think, was a legitimate one where you were delayed because of center constraints and not the constraints at National or the airport that you were going to.

It depends upon the area. It depends upon the airport. At Newark, it may well be that there are center constraints, and the airport has the capacity, and that is what is causing the delay. At other airports, it is obviously the airport limitations that are causing the delays. It is both.

As we suggest here, we should know what the cause is and examine what the factors are. If it is a center congestion, let's see what is causing the center delays. If the constraint is the airport, obviously, there are limitations there that are perhaps a little more difficult to deal with. On the other hand, we have suggested some things that would bring rather immediate relief to the short-haul airlines, that is separate access. That would relieve not only us but the major airlines flying larger aircraft.

We fly smaller aircraft. They fly at lower altitudes. They fly slower. To the extent that they could be separated at these airports, both in the airways and at the airports themselves, this would bring relief.

While the FAA is working on this, and we have a joint project here at National Airport, we would like this to receive a very, very high priority because for our segment it could bring some immediate relief.

Senator ANDREWS. You feel that your type of airplanes could be controlled in a separate way from the other planes using the airways?

Mr. EKEDAHL. Yes, indeed.

Senator ANDREWS. Because you fly at consistently lower altitudes.

Mr. EKEDAHL. Because we fly at lower altitudes. In many cases, we don't even have contact with the centers. We can fly tower en route, tower to tower, without any contact with the centers. We find that because of center constraints, even though the departing airport and the arriving airport has capacity, and is wide open, we are delayed—we experience delays.

Senator ANDREWS. Does your group find evidence of these red sectors that were mentioned before?

Mr. EKEDAHL. Yes; the center constraints that cause delays even though the airports themselves are not at capacity.

Senator ANDREWS. In other words, center constraints that have no relationship to airport constraints.

Mr. EKEDAHL. Exactly, yes.

Senator ANDREWS. Thank you very much. We appreciate your statement, Mr. Ekedahl.

Senator LAUTENBERG. Mr. Chairman, if I could ask a question.

Senator ANDREWS. Senator Lautenberg.

Senator LAUTENBERG. The center constraint, some of that obviously is the ability of the equipment employed and some is the ability of manning these stations properly, wouldn't you say that?

Mr. EKEDAHL. I would agree with that. Our concern is that the FAA target levels for air traffic controllers are about 1,000 short now. I think we have to believe that staffing at those target levels would spell relief fairly quickly for these delays.

REGIONAL AIRLINES PROVIDE ESSENTIAL SERVICE

Senator LAUTENBERG. The other thing, if I may, Mr. Ekedahl. You represent what I think is an essential service arm of the air transport industry because many communities have been left out of the loop as a result of deregulation, and that is one of the disadvantages of deregulation. You and your members have picked up that load.

It is very, very important that the smaller communities throughout the country not be disenfranchised in terms of air traffic. It is critical, if a community is going to grow and offer jobs that business have a chance to settle. So you do provide an essential service.

What I am concerned about, and I don't know whether you have discussed this openly, is that in this process of competition that you could be easily kind of pushed aside. They could say: Look, it is more important to bring in the flights from major city to major city, bigger aircraft, whatever the numbers are. There is just so much space out there to be used. You, coming in with the 30/40-passenger airplane, maybe you are going to have to just wait. Maybe you will have to travel at different hours. The travelers using that airline or that aircraft have the same needs often as the persons who arrive on the 747 from the west coast or Europe. Are you concerned about that at all?

Mr. EKEDAHL. I appreciate your views very, very much.

Our industry views that the biggest single threat to what you have just described, a network of national air transportation linking the small communities to the system, the biggest single threat to that is access at the hub airports.

If people in these communities are to be a part of the system, they have to get to those hub airports in a timely fashion and connect for their flights. If this push comes to shove, we are very sensitive to the fact that the larger carriers have the economic weight to dominate the prime hours.

Presently there is a balance in the system, and it is important that we work to maintain that. Any system that addresses the allocation of this scarce resource now, airport access, we certainly hope will take into account the points that you have just made, Senator.

Senator LAUTENBERG. Thank you, Mr. Ekedahl.

Thank you, Mr. Chairman.

CONCERN THAT CONGESTION IS THREAT TO SAFETY

Senator ANDREWS. In your response to Senator Lautenberg, you touched on the threat for access that is found in this airway congestion. What about the threat to safety.

Are your people beginning to be concerned with this congestion that makes it more and more difficult to have airway access, that it is not just a threat to timely operation, but that it is also a threat to safety?

Mr. EKEDAHL. We certainly would not favor any solution to the congestion problem that in any way compromises safety.

Senator ANDREWS. Does the congestion problem, Mr. Ekedahl, pose a threat to the safety of the traveling public?

Mr. EKEDAHL. We have a safety expert here, and I am going to let Alan Stephen respond to that.

Senator ANDREWS. Fine.

Mr. STEPHEN. The congestion problem that we speak of is really a flow management and demand management program by the FAA in which delays are assigned to incoming flights. Airplanes are held at the originating airports, and it starts to ripple through the system.

The fact is that the airplanes are not in the air. The result of congestion is the delay on the ground. It is not a safety problem whatsoever. It is, in fact, the exact opposite. Part of the rebuilding process in the air traffic control system is going to be continuing to assure that the controller work force has all the tools necessary, the training necessary, and enough time to be able to bring themselves up to the fullest capability to hold airplanes in the air.

One of the problems we face is that if, for example, the FAA predicts a thunderstorm is going to come through, and a major airport is going to be down in its operational capability, it assigns delays to all the arriving flights, and they are held on the ground at airports all over the country. If that thunderstorm doesn't materialize, the airplanes are on the ground, and we have created a delay problem when a congestion never developed.

What I would like to leave with you is that it is clearly not a safety-related issue because the airplanes are not in the air.

Senator ANDREWS. If we relieve the congestion and do it in such a way that the safety of the traveling public is protected, which is certainly of the highest priority, the greatest need for that, as I understand your testimony, is to find adequately trained, additional controllers so they can handle the airspace up there in a safe way. Is that essentially what you are saying?

Mr. EKEDAHL. That is a part of the answer. I think there are many parts to it.

Senator ANDREWS. You have put your finger on one of the problems being airspace congestion.

Mr. EKEDAHL. Yes.

SOLUTIONS TO HELP RELIEVE AIRSPACE CONGESTION

Senator ANDREWS. How do you relieve that safely, by adding controllers which is what the FAA now proposes to do?

Mr. EKEDAHL. That is a part of the solution. Separation, just fine tuning the air traffic control procedures are part of it.

Senator ANDREWS. Could we add additional airways?

Mr. EKEDAHL. Yes.

Mr. STEPHEN. That is certainly the idea of separate access. We have learned a lot in the post-strike recovery. For example, we developed a tower en route program, 1,900 different route segments are developed by taking advantage of two terminal facilities that are side by side. The airplane talks to the terminal, and never talks to the center, and the airspace is protected. The result is to offload the center workload by these types of adjustments.

I think that it is very important to point out that we are doing a lot here. The first is the airlines are meeting, as we sit, trying to adjust their schedules to eliminate one of the causes that has been identified. Whether it is correct or not, we are adjusting our schedules to get away from these peaking problems.

Another program has to be to get that controller work force to target staffing levels that the administration says it needs. Another program is to work on procedures. Another program is to get our modernization effort, the funding of new equipment and facilities in place so that we can continue to grow.

What we need here, we need the ability for the air traffic control system not to handle 30 percent more traffic per year, but maybe 3 to 4 percent traffic growth because that is what the long-term traffic growth is. It is a gradual step-by-step process that will allow us to accommodate the travel demands of all types of users of the system. We can get that done.

Senator ANDREWS. Thank you very much.

Our next witness is Paul Ignatius, the president and chief executive officer of the Air Transport Association.

Mr. Ignatius, it is good to have you here. Let me assure you that your statement will be included in its entirety.

AIR TRANSPORT ASSOCIATION

STATEMENT OF PAUL R. IGNATIUS, PRESIDENT, CHIEF EXECUTIVE OFFICER

Mr. IGNATIUS. Thank you very much, Chairman Andrews, and Senator Lautenberg.

I will summarize some of the key points from my statement. I am glad that the full statement will be made part of the record.

I would like to say at the outset, Mr. Chairman, that the airlines very much appreciate the action you took several weeks ago to extend legislation so that fully experienced controllers in a retired status will be saved to continue their important work for another year. It would have been a shame had we lost them at a time when their necessary services simply couldn't be spared. We appreciate the effort that you made in that regard.

Senator ANDREWS. Thank you very much. I hope you pass that on to the Department of Transportation, which wasn't quite happy, shall we say, with what we were doing at the time we did it.

Mr. IGNATIUS. It is extremely important that we address both qualitative and numerical shortages today in controllers, as Administrator Engen, I am sure, will speak to. Your action helps with respect to both of those, and particularly the qualitative aspect of the problem.

We also appreciate the leadership in ensuring that adequate funds are appropriated from the Airport and Air Way Trust Fund. Over the long run, this is probably the most important single thing to deal with the problem.

The trust fund receives substantial moneys every year principally from the 8-percent tax on domestic airline tickets. Those moneys are earmarked for modernization and expansion of the airway system, and for development of airport facilities.

It is extremely important that those moneys be appropriated to the levels that are authorized in order to ensure that adequate capacity is available to all users of the system. That is to say, the travelers who constitute the mass travelers that Senator Lautenberg spoke of earlier who use the commercial airlines, the shippers who use the airlines and, of course, the other users, including general aviation, which provide a number of important functions.

Many of the roots of the current problem, of course, arise from the PATCO strike 3 years ago. We are still recovering from that. The most important consideration then, 3 years ago, and now, of course, is safety. The second consideration of importance then and now is to rebuild the system as quickly as that can be done consistent with safety, and to operate it as efficiently as it can be operated. There is no question with respect to the first of these mandates, safety.

AIRLINE INDUSTRY'S COMMITMENT TO SAFETY AND EFFICIENCY

The airline industry's commitment to safety is reflected in the fact that in the 26 months since July 1982, U.S. scheduled airlines have carried more than 600 million passengers on more than 9 million jet flights without a single fatality. The period since deregulation, that is 1978, has represented the best safety record since the jet age began in 1958.

With respect to the second of these matters, namely, operating the system as efficiently as possible, while you are holding these hearings today, Mr. Chairman, as you know, there are talks going on across the river in Crystal City where airlines have voluntarily come together in order to determine whether they can make adjustments in their schedules at six airports throughout the country in order to relieve some of the congestion that we have experienced.

I hope those talks will be successful, but I cannot be sure, obviously, at this point as to what the final outcome will be. There does seem to be some progress being made, whether the FAA regards that as progress or sufficient progress remains to be seen. Meanwhile, the FAA has issued a notice for proposed rulemaking which says in so many words that it will take over the job of scheduling if the airlines, through their voluntary efforts, do not find ways to relieve congestion.

Mr. Chairman, we are greatly concerned about the idea of the Government taking over the scheduling of airlines. If that is ever going to be something to be considered, it ought to be a last resort and not a first resort. There are any of a number of things that can be done, some of which have already been brought to your attention, others of which I will speak to and which are contained in my statement, that ought to be undertaken and explored fully before having the Government run airline schedules.

The Congress deregulated the airlines in 1978. The airlines have responded to that mandate, and they are now operating their businesses in response to customer demand and market demand. It would be a supreme irony if having responded to the mandate of Congress in this wholehearted way, that there would be a return to regulation through the control of schedules by the Federal Aviation Administration. We are very concerned about that, and we have expressed those concerns. We think there are many, many other ways of dealing with this problem short of the Government running airline schedules.

GENERAL AVIATION NOT CAUSE OF PROBLEM

Let me speak for a moment about general aviation since that matter has come up. Certainly, I would not say that general aviation is the cause of the problem today. I have already stated that general aviation, which consists of a number of aviation activities, provides many important services.

There are something on the order 200,000 general aviation airplanes. In comparison, there are something on the order of 35,000 or so commercial airliners that provide scheduled air service. Of those roughly 200,000 general aviation airplanes, perhaps 8,000 or 9,000 are jet or turboprop airplanes that tend to operate at the altitudes that the commercial airlines operate. Most of the others are smaller airplanes and operate in many cases out of airports that are not utilized by the commercial airlines.

This traffic, as Mr. Stimpson pointed out, is important traffic in terms of many of the functions that it carries out, but it is a major factor in the en route workload that is carried out at the 22 centers operated by the FAA. Let me give an example similar to the one that you mentioned in your opening remarks.

I was flying east from Denver a couple of weeks ago. We were delayed for a considerable period of time in Denver. There was no apparent problem in Denver nor was there an apparent problem in Dulles Airport, which was the terminus for my flight. The captain came on the air and said that the problem was an air traffic control problem in the Cleveland Center. Cleveland is one of the major en route centers, as you know.

For July 1984, the most recent period for which I have data available, FAA statistics show that the workload at the Cleveland Center is some 48 percent attributable to the airlines, and 48 percent, an equal amount, attributable to general aviation and air taxi. That is to say that there is a substantial volume of general aviation traffic in the en route system, and what is true of Cleveland is true of many of the other en route centers.

Overall, if you take all of them, the airline demand is slightly more than the general aviation demand. The average airline demand is some 45 percent of the workload, and the general aviation is 40 percent. The difference is other users, and that is principally military.

So there is a substantial amount of traffic that is being handled in the en route system which contributes to the delay problem, quite apart from the fact that a given airport may have more traffic than it can handle at a particular moment, and that part of the problem must be addressed.

ATTEMPT TO FLY AT OTHER THAN PEAK TIMES

One of the general aviation organizations, the business organization, has come forward with a suggestion that if FAA would provide the necessary information, it would attempt to fly at times other than peak times, and it would try to avoid those sectors in the en route system that are congested, the so-called red sectors.

I think that is a useful suggestion. I hope the FAA can respond affirmatively to it by providing the information that is needed. As a voluntary system, one would hope that it would work. I think that one needs to look a little more carefully at just how this would work in order to be effective.

In the last analysis, we say in my statement what the CAB has said in the past, and what the FAA has said in the past, that if there is a shortage, if there is any temporary shortage in capacity, let me quote from the CAB's 1982 statement, "When conditions do not permit the air traffic control system to operate at its normal capacity, scheduled service should receive priority." The FAA said similarly in 1968, "When capacity limitations compel a choice, however, the public service offered by the common carrier must be preferred."

I emphasize what I hope would be only the temporary nature of something of this kind. In the long run, the solution is to assure that adequate capacity is available in order that the airlines, general aviation, and all users of the system will be able to operate and carry out the important functions that they provide for the American people.

Adminstrator Engen and the FAA have begun to take a number of steps in response to the problem that exists. We think more things can be done. We have made a number of suggestions toward that end.

In conclusion, I hope that this hearing will be helpful in focusing attention on the matter. Obviously, the airlines are prepared, able and willing to do whatever they can to contribute to the solution of the problem. It is an important problem, but it should not be solved, and I hope will not be solved, by reimposition of regulation. The public has benefited from deregulation and it should be allowed to continue.

Thank you, Mr. Chairman.

[The statement of Mr. Ignatius follows:]

STATEMENT OF PAUL R. IGNATIUS

I am Paul R. Ignatius, President of the Air Transport Association. Our members provide most of the nation's scheduled air transportation and, accordingly, we have a vital interest in these hearings on air traffic delays.

Let me say at the outset, Mr. Chairman, that the airlines appreciate your successful efforts in recent days to extend legislation to continue the service of a number of retired annuitants — highly skilled controllers — who otherwise would be lost to the Air Traffic Control (ATC) system at a time when they cannot be spared. The airlines also appreciate your leadership in helping to assure support of the necessary funding for expansion and modernization of air traffic control and airport resources.

As you know, the delays in air transportation that have occurred with greater frequency this year have their origin in the illegal strike of PATCO three years ago. The airlines supported the President's decisive action, even though the disruption in service was costly to them and most inconvenient for their passengers and shippers. The airlines' overriding consideration then, as now, was to assure safe operation. The secondary consideration then, as now, was to make sure that the system was restored to fully operational status as quickly as possible.

There is no question that the primary requirement for safety has been met. The airline industry's commitment to safety is reflected in the fact that in the 26 months since July 1982, U.S. scheduled airlines have carried more than 600 million passengers on more than nine million jet flights without a single fatality. The period since deregulation has represented the best safety record since the jet age began in 1958, when the airlines carried 49 million passengers. This year, they are expected to carry about 325 million passengers. The airline industry grew because of its safety record, and its future growth will depend on that highest priority resolve.

With respect to restoration of the system, the airlines have two comments:

1. First, they recognize the effectiveness with which dedicated professional air traffic controllers and the FAA tackled the

unprecedented problems of the massive PATCO walkout. Controllers who stayed on the job together with managerial personnel kept the system going, operated it safely, and made major progress in returning to pre-strike levels of capacity and efficiency. The FAA and its controller personnel deserve all the commendations they have received for this splendid effort.

2. Secondly, the airlines believe that despite this fine effort, more can be done, within the overriding mandate of safety, to enhance system capacity. They have made recommendations for doing this repeatedly since the PATCO strike in August 1981. For example, ATA sent a number of recommendations to then FAA Administrator J. Lynn Helms on June 11, 1982 for speeding recovery. When the new Administrator, Donald D. Engen, assumed his duties in the Spring of 1984, ATA submitted additional suggestions on how more capacity could be safely provided. A copy of my letter of April 26, 1984 containing ATC recommendations is attached as Exhibit I.

ATA also called attention to the need for greater ATC capacity in order to avoid delays when it testified before this Subcommittee on May 2, 1984. Reproduced below is the table contained in the ATA testimony.

Staffing Projections
Source: FAA

Approved Level 14,305

Workforce	Goal	On Board 1/31/84	Projected 9/30/84
Radar Controllers	6,444	5,281	6,164
Non-Radar Controllers	5,268	4,238	4,643
Air Traffic Assistants	1,746	1,212	1,362
Developmentals	847	2,483	1,325
Total	14,305	13,214	13,494

As you can see, there are both numerical and qualitative deficiencies in the staffing levels that must be overcome as soon as possible. We understand from FAA that there have been some improvements in the last several months, but that the situation overall is not significantly different from that depicted in the table above. Additionally, we have questioned whether the staffing goal of 14,305 is adequate to meet the needs of travelers and shippers as well as general aviation and military users of the ATC system.

FAA has responded to many of the recommendations contained in my letter to Administrator Engen of April 26, 1984. On August 6, 1984, it summarized these responses and other initiatives Admiral Engen has undertaken in a press release that is reproduced in Exhibit II.

Despite the rebuilding efforts, ATC system capacity is insufficient to accommodate the demands placed upon it by the airlines, general aviation, and other users without associated delays. Delays are costly to the airlines and frustrating for passengers and shippers. You can understand our interest, then, in exploring every reasonable measure that can provide greater system capacity. These include personnel matters such as adequate staffing levels, retention of experienced controllers who would otherwise retire, and programming of sufficient numbers of trainees, as well as operational changes designed to increase capacity. The most recent ATA suggestions, contained in our communication to FAA dated August 30, 1984, are shown below:

- Reexamine controller workforce targets to ensure adequate numbers of controllers to accommodate current and future aviation requirements.
- Ensure that enough new hires enter the controller training pipeline to account for actual attrition rates and to meet future system demand.
- Strengthen efforts to train those new controllers already hired to full performance levels as soon as practical.
- Take steps to retain those fully qualified, experienced controllers and facility managers who, in large numbers, are coming up for elective or mandatory retirement.
- Deal effectively with human relations problems, which are becoming more evident among the

controller workforce, and ensure that morale and working conditions are maintained at the highest level.

- With airline cooperation, assess en route conditions on a timely basis and refine flow control techniques to avoid unnecessary restrictions and system inefficiencies.
- Reaffirm long-term commitments to full funding and timely implementation of the National Airspace System Plan, ensuring that the billions of tax dollars collected from aviation users are out to work for their intended purposes.
- Limit the use of routine in-trail (which should normally not exceed 10 miles) and altitude separation practices. Eliminate the "in-trail regardless of altitude" practice.
- Authorize the use of reasonable in-flight holding to assure efficient use of airspace and airport capacity and to reduce ground delays.
- Ensure that the FAA Quality Assurance Program does not have the unintended effect of overly restricting individual controller actions that reduce airspace and airport capacity.

Recently, one of our member carriers, supported broadly by our membership, requested and received antitrust immunity from the Civil Aeronautics Board (CAB) for the purpose of discussing on a voluntary basis possible schedule adjustments that might alleviate some of the delays that have occurred. These talks began this week and are currently in progress.

The talks, however, are in no way a substitute for what is needed — a fully responsive air traffic control system that can accommodate the requirements of the airlines and their passengers and shippers in the deregulated environment. This point cannot be over-emphasized, Mr. Chairman. In 1978, the Congress deregulated the airlines, ending their status as quasi public utilities and requiring them to operate in response to market demand, free of government economic regulation. It would be a supreme irony if the intent of Congress and the wholehearted response of the airlines were frustrated by a new form of economic regulation by FAA. The airlines were expected by the Congress to operate as part of the free enterprise system of the American economy, and are understandably troubled when their market-oriented efforts to do so become targets for reimposition of regulation. Simply put, the government should stay out of airline scheduling.

Thus, the airlines have expressed great concern about a recent proposed rulemaking that would permit FAA to control airline schedules at key airports throughout the country. This proposal, among other things, fails to make any distinction between public and private transportation, and excludes the very large private aviation fleet from its purview. The airlines are certain that the public understands and supports the principle that if any adjustments are required as a temporary measure to relieve air traffic control delays, the mass transportation needs of passengers and shippers must be accorded the necessary priority. The CAB, the FAA, and the courts have expressed this same view on a number of occasions as, for example, when the CAB said in 1982 that "when conditions do not permit the air traffic control system to operate at its normal capacity, scheduled service should receive priority." And in a similar statement in 1968, the FAA said: "when capacity limitations compel a choice, however, the public service offered by the common carrier must be preferred."

But, most importantly, the airlines hope and expect that system capacity will be provided to meet all the demands placed upon it by public and private users alike. Private aviation fulfills many important functions with its fleet of more than 200,000 aircraft, and the airlines support every reasonable effort to ensure that its needs are met. This can best be accomplished by the expansion and modernization of the airways system, and by assuring additional airport capacity. The Congress has provided for this through establishment of the Airport and Airways Trust Fund whose principal revenue source is the 8 percent tax paid by airline passengers on domestic flights. As I stated earlier, the airlines appreciate the efforts of this Subcommittee and your personal efforts, Mr. Chairman, in seeing to it that adequate funds are appropriated from this Trust Fund to provide for the future needs of air transportation.

In summary, Mr. Chairman, our nation has the means and the necessity to enhance the capacity of airways and airports in response to commercial and private aviation requirements. What is needed, consistent always with safety, is immediate consideration and action to assure that the growth of aviation in the United States is not stifled by an attitude of reliance on government intervention and controls. As far as the scheduled airlines are concerned, competition is the answer. It has produced a more efficient system with lower fares and better service for the public.

This completes my statement. I would be happy now to respond to your questions.

EXHIBIT I

Letter From Paul R. Ignatius

April 26, 1984

Honorable Donald D. Engen
Administrator
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, D. C. 20591

Dear Don:

I am sure that among the first things you will be looking into will be the status of the air traffic control recovery program following the PATCO strike in August of 1981. The effectiveness with which FAA tackled the unprecedented problems of the massive walkout was a proud chapter in its history, and the management and controller personnel who restored the system and have kept it operating safely deserve all the commendations they have received.

We have come a long way, but serious problems still remain. I want to mention several that should receive top level attention.

First, I am enclosing an action plan adopted by our Board of Directors at the March 1984 meeting. I have reviewed this plan with Secretary Dole and have furnished copies to Mike Fenello and other key FAA officials. The item of most immediate concern in the action plan is the personnel situation. I hope you will have an opportunity to examine this in detail because I believe there are urgent needs that must be met. If not, the already inadequate personnel resources will be significantly diminished.

The table below, based upon FAA data, summarizes the current situation and projects personnel levels for September 30th of this year:

Staffing Projections

Approved Level 14,305

	On Board		Projected
Workforce	Goal	1/31/84	9/30/84
Radar Controllers	6,444	5,281	6,164
Non-Radar Controllers	5,268	4,238	4,643
Air Traffic Assistants	1,746	1,212	1,362
Developmentals	847	2,483	1,325
Total	14,305	13,214	13,494

Several important points are evident from the Table. First, there is a numerical shortage of over 1,000 controllers against the requirement of 14,305. Secondly, there is a qualitative shortage of more than double that amount when the principal skill categories — radar controllers and non-radar controllers — are taken into account. The developmentals, that is, newly-hired controllers undergoing on-the-job training, exceed by more than 1,600 what the program calls for.

By September 30th, some of the qualitative shortfall is expected to be overcome as developmentals move into the non-radar controller classification, and non-radar controllers move into the fully qualified radar controller category. A numerical shortfall of over 800 will continue to exist, however, and the qualitative shortfall in the two skill categories will exceed 900.

The situation will become far more serious unless action is taken to deal with the retirement situation and the washout rate.

Up to 2,000 qualified air traffic control personnel are now eligible for retirement. Additionally, 234 retired annuitants working in the system may not continue after December 31, 1984 when the special pay legislation for controllers expires. It is difficult to overstate the devastating effects upon the system if substantial numbers of these experienced individuals are compelled to retire.

The washout rate, currently running around 32% at the FAA Academy and 10 - 15 percent in on-the-job training, exceeds the anticipated rate. The washout rate, per se, is not the problem; clearly it is important to identify at an early stage those who lack the aptitude to be effective controllers. The problem is the failure to provide a sufficiently high input of trainees to sustain the necessary output of qualified personnel, taking actual washout rates into account. We believe that immediate action is needed to increase the number of trainees in light of the higher than anticipated washout rates.

Related to these considerations is the currently applicable structured staffing ratios. I am told that prior to the PATCO strike, the informal prevailing ratio was 75 percent radar controllers and 25 percent manual controllers. The ratio has now been formally established at 60/40. We believe that current resources could be more effectively employed if FAA returned to a higher ratio, perhaps 70/30. A higher proportion of radar controllers in the staffing ratios would create immediate opportunities to advance qualified controllers, thereby permitting better utilization of personal resources.

There are a number of other matters covered in the enclosed action plan. For example, the use of part-time controllers would help to alleviate the peak staffing problem if ways could be found to authorize part-time work. Additionally, it is important to verify whether the staffing goal of 14,305 is sufficent to assure necessary resources for expected growth, and to increase it if it is not.

The situation requires immediate attention, particularly with respect to:

- **Legislation to retain controllers eligible to retire**
- **Provision for part-time controller effort**
- **Increased training input to offset high washout rates**

My staff and I are prepared to assist, to the extent appropriate, in helping to resolve these problems. With this in mind, I have asked my secretary to get in touch with your office to see if a meeting with you can be arranged in the near future.

Sincerely,

Paul

Paul R. Ignatius
President and Chief Executive Officer

AIR TRAFFIC CONTROL SYSTEM ACTION PLAN

1. Policy Reaffirmation
   - Obtain reaffirmation from DOT/FAA that ATC resources will be provided to enable carriers to schedule in accordance with market demands.
   - Enlist support of Congressional, aviation, and community leaders.
2. Removal of Restraints
   - Remove post-PATCO slot constraints as soon as this can be safely done.
   - Eliminate pre-PATCO type restrictions as soon as possible.
   - Confine "flow control" or "flow management" to circumstances relating to weather or other temporary factors, consistent with prior practice.
3. Operational Actions
   - Reestablish normal in-trail and altitude separation standards.
   - Increase number of en route sectors.
   - Use limited in-flight holding to reduce ground delays.
   - Refine flow management techniques through increased automation and other means.
   - Ensure that FAA Quality Assurance Program does not have unintended effect of overly restrictive controller actions that reduce airspace capacity.
4. Personnel Actions
   - Reexamine controller staffing objectives and the basis on which they were derived to assure they are numerically and qualitatively adequate to meet anticipated future growth.
   - Take expedited action to bring controller staffing to authorized levels by means such as:

- Retention of retired annuitants
- Retention of eligible retirees
- Use of retired controllers on part-time basis without loss of retirement pay to meet peak demand
- Continued use of contractor for providing instructors at FAA Academy
- Increase in hiring program and pipeline pool, as necessary, to meet higher attrition rates

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EXHIBIT II

FAA OUTLINES AIR TRAFFIC IMPROVEMENT PROGRAM

For Release
Monday, August 6, 1984

Following are the initiatives already underway and planned in managing the nation's air traffic control system, as announced today by Donald D. Engen, Administrator of the Federal Aviation Administration.

Initiatives Relating to People and Personnel Matters

1. Staffing and Overtime Review.

I am personally reviewing our current projected air traffic control "full" staffing number, and I will not hesitate to raise that number if I feel that is necessary in order to accommodate increased air traffic levels. I would expect to make a decision on this regard in September, and will review and adjust this number on an ongoing basis, as necessary. I also am personally reviewing our staffing and overtime situations at all ATC facilities every two weeks to make sure that we are making the best use of our people.

2. Retaining Experienced Controllers.

I am interested in reducing the projected loss of experienced controllers due to retirements. My staff now is actively working on ways to improve our rate of retention of those controllers eligible to retire in this and future years.

3. Academy Curriculum and Controller Training.

The FAA is reviewing the air traffic controller training process and the curriculum employed at the Academy to ensure that newly hired controllers are becoming operationally qualified in the optimum time without sacrificing quality. This review will also be oriented toward emphasizing pratical requirements placed on controllers in the field.

4. Complaint "Hotline.

In order to address concerns expressed about the filtering out of unfavorable information as it passes from the field toward Washington Headquarters and me, I have initiated a "hotline" communications link so that individual employees within the FAA can communicate directly to my immediate staff and to me their concerns relating to personnel, safety, and other issues. This communications link will be in operation today.

5. Employee Survey.

The FAA has sent out to all employees a survey designed to obtain for FAA management an objective reading of how employees feel about their working conditions and the way FAA management is handling their concerns. I will review the results of this survey with my top management and make any changes which appear to be warranted.

6. Facility Visits and Listening Sessions.

I have made it a practice, and will continue to do so, to visit as many center, tower, TRACON, and flight service station facilities as possible and to visit and talk with every available employee while I am there. This feedback is important to me, and I am using it in managing the system. I also have scheduled formal "Listening Sessions" at several facilities. At these sessions, I sit down and listen as the controllers and other employees in the field express their thoughts and concerns.

7. National Facility Advisory Boards.

The FAA has planned a National Facility Advisory Board meeting in the early fall which will be comprised of representatives of local Facility Advisory Boards in each of the nine FAA regions. The local Facility Advisory Boards advise facility management on concerns relating to their facilities, and the purpose of the national meeting is to allow representatives of the local Boards to share concerns which may have national implications. We will review all suggestions made at this national meeting.

8. Larry Jones Committee Assessment.

The Larry Jones Committee has been asked to re-evaluate the FAA's progress in improving manager-employee relationships. In the early fall, I will meet with the Committee and discuss its assessment of the situation. Results of this revisit, both good and bad, will be examined. Changes that are warrnated will be made.

9. Structured Staffing Revision.

After the completion of a comprehensive review, started in February, of the "structured staffing" concept, the FAA has modified structured staffing so that nonradar controllers will be eligible to be trained to become radar controllers. This modification will result in a higher percentage of our controllers being qualified radar controllers, which, in turn, will give us much greater staffing flexibility to accommodate peak air traffic demands.

10. Human Resource Management Improvement.

A plan for initiating necessary improvements to FAA's human resource management efforts is currently under development. In order to give this important element of FAA management the proper high-level emphasis, I created a new FAA management position--the position of Deputy Associate Administrator for Human Resource Management. This person will be responsible for finalizing this human resource management improvement plan and coordinating its implementation throughout the FAA. This action will pull together many programs, both existing and planned, and provide better and more direct management of the many initiatives we have in human relations.

11. Review of the Structure of the FAA Air Traffic Control Organization.

After a careful review of the air traffic control system with my top managers, I have now decided to realign the operational structure of the system and provide for more centralization, with an eye toward increasing the standardization of operational procedures.

Automation and Procedures

1. Quality Assurance.

The FAA now has installed at its 20 continental U.S. centers its "Quality Assurance" computer software, which advises the controller of even the smallest deviation from standard separation. While this software has caused morale problems due to lack of understanding about its purpose, it has increased the safety of the system by giving controllers real-time feedback on less-than-standard separation of air traffic. It is just one more tool a controller can use to maintain the safety of the system, and all indications are that it is improving our performance.

2. Implementation of Software to Predict Sector Loading.

We are now implementing a special computer software program which can predict sector loading within the air traffic control system. The program is expected to tell us when and where peak loads are occurring so necessary adjustments to routings, sectors, or manpower can be accomplished in a timely manner.

3. En Route Sector Review.

The FAA has begun a complete review of its sector system structure. All en route centers' sectors currently in use will be reviewed to determine where "fine tuning" can be achieved. This will enable controllers to handle air traffic more smoothly and efficiently. We are also making changes as they are required on an as needed basis. Since 1983, we have added 39 sectors to accommodate increasing and changing traffic demands.

4. ATC System Capacity and Demand Study.

The FAA has commissioned a study to examine the capacity of the current air traffic system and its capability for meeting the current and future demands of aircraft operators on the system. This study will analyze how well the FAA is doing with respect to meeting the demands placed on it and will recommend changes if they are appropriate.

5. Flow Management Software Installations.

The FAA is in the process of installing in its centers new software which will greatly improve air traffic flow management in individual centers because it will, for the first time, give the controllers the capability to take into account, in real-time, critical weather developments which may impact on traffic and critical changes in airport acceptance rates. Through the computer, these factors will be phased into the flow management process on a real-time basis, and the controllers will be able to make decisions based on dynamic, up-to-date information about factors which are impacting the system. This will allow controllers to flow traffic more efficiently.

6. NAS Plan Implementation.

I will continue to be personally involved in making sure that equipment improvements embodied in the National Airspace System Plan will be brought on line according to schedule. Over the next 10 years, these equipment improvements will be extremely important in improving the capabilities and capacities of our air traffic control system. I need the Congress' continued support of this Plan and of the budget requests supporting it in order to achieve the significant improvements in our air traffic control system which will be made possible by the implementation of the Plan.

Capacity

Airport and Runway Construction.

I have addressed several times the serious need for more airports and runway serving commercial air traffic to be built in this country. We are continuing to look at ways to encourage such construction.

Other

1. Industry-Government "Think-Tank."

I recently convened an industry-Government "Think-Tank" group of approximately 40 people representing the FAA and commercial, general, and military aviation to examine how aviation operators and the FAA can best deal with delays in our nation's air traffic system. The group's recommendations fall into five categories: (1) ATC procedures; (2) ATC organization; (3) the management of aviation operators' demands and schedules; (4) continued FAA/industry cooperation; and (5) ATC human relations matters. I intend to meet with airline executives in Dallas and Atlanta in mid-August to discuss our plans with regard to both the Think Tank proposals and other issues concerning the ATC system.

2. National Airspace Review Executive Committee.

The National Airspace Review Executive Committee is an ongong vehicle for obtaining user input concerning the air traffic system and how it could be improved. Recommendations emerging from this group have been extremely helpful and have resulted in a more efficient and productive system. I rely heavily on this Committee to improve our air traffic system.

NEED FOR MORE TRAINED AIR TRAFFIC CONTROLLERS

Senator ANDREWS. Thank you, Mr. Ignatius.

You said in your summary that the root causes of the present problem are in the PATCO strike. That leads me to conclude that the resolution also lies largely in getting more trained air traffic controllers on the job. Is that essentially what you are telling us?

Mr. IGNATIUS. I think there is no question but what we need to have more trained controllers. We are roughly 1,000 short against the objective of 14,305 that the FAA stated was the adequate number. But within those numbers there are qualitative shortages in a sense more important than the numerical shortages.

Also we have raised the question with the FAA, Mr. Chairman, as to whether their objective of 14,305 is sufficiently high. Prior to the PATCO strike, the comparable number was around 16,000. FAA believes that they are operating more efficiently today so that they don't need as many controllers today as they did then. But I think that it is awfully important, and we have asked them if they would do this, to look at that number, 14,305, and particularly the assumptions that underly that number, in order to redetermine whether it is a sufficient number. Meanwhile we are short against the 14,000 goal, and we need to get up to that point as soon as we can.

Senator ANDREWS. You know, in the years that I have been in this appropriations business, I find that sometimes scheduling a hearing is almost as effective as the results of the hearing.

We scheduled this hearing about 3 weeks ago, and lo and behold a week or two afterward came the announcement that we were adding these additional controllers. The problem, of course, had been there for some months. You identify it as the need for additional controllers.

The question is, has the FAA been moving expeditiously over the past several months to remedy this problem, or have they suddenly come awake and are they now beginning to do what they should have done a year ago?

Mr. IGNATIUS. First, I want to be the first to say that the commendations that the FAA received for its efforts following the PATCO strike in August 1981 are well deserved. You just can't say enough good things about the wonderful job, I think, that the controllers who stayed on the job did and the management in FAA.

Second, they undertook, I think, with a great deal of intelligent effort, the problem of rebuilding. In recent months—not in recent weeks, but certainly in recent months—we have had the feeling that perhaps more could be done than was done. We became concerned, for example, when we saw that the failure rates of controllers, that is to say the ones who had graduated from the academy but on the job were not making it, were higher than what the assumptions were.

The fact that you are washing people out of the system in and of itself is not bad, it is a good thing. You don't want people doing this important work who don't have the aptitude for it. But you must make sure that you start enough people through training in order to meet the actual failure rate, and not the assumed rate, and in fact this wasn't happening.

They have taken some steps to do something about that. They can give you the figures. My memory is that they were programming something like 1,100, and they have now upped it. I saw just recently that they are going back to a double shift at their training academy in Oklahoma, something that I personally think is necessary. I wish that perhaps this had been done sooner than it was, but at least they are beginning to do that.

So I think that they are responding. Part of the problem is that you have an Administrator who has come in with excellent qualifications for the job, and he quite rightly said: "I want to discuss with my staff what they think these problems are, and I want to reach some independent judgments on my own." He appears to have reached many of those judgments, and he has begun to take the necessary action in terms of hiring more people, increasing the training rate, and so forth.

There are any number of other things, some that we have suggested, some that others have suggested, that we hope and believe that the FAA will also consider. In short, we think that there are a lot of things that can be done to alleviate the problem.

Senator Andrews. One of the key ones is getting these additional controllers as Administrator Engen says is necessary. This problem didn't come about on his watch. He has taken over the problem.

Mr. Ignatius. That is correct.

Senator Andrews. What we are trying to do is set up the proper funding, to update the requests that were made of this subcommittee by his predecessor. Administrator Engen hasn't appeared before us.

Mr. Ignatius. There are just two points, and I can make them quickly. One to get up to the 14,305 objective as quickly as that can be done. Second, to make certain that that is a sufficient number. It may not be high enough. It may be that we need more. There has been a lot of growth in general aviation. There has been a lot of growth in commercial airlines. We need to make sure that that number is the adequate number.

FREEING AIRSPACE THROUGH ADDITIONAL CONTROLLERS

Senator Andrews. You talked about the talks that are going on and the publicity that has been given to the talks that have been going on. The talks are being conducted by the airlines as to what they can do to resolve the problem. The talks are largely concerned with congestion at the six major airports.

On balance, from your statement, it would seem to me that while that might be of some benefit, the major challenge is in freeing more space in the airways through the addition of additional controllers. Is this essentially how you want to be understood?

Mr. Ignatius. I believe both are factors, but it would be my opinion, and I would hope that FAA would comment on this also, that a substantial part of the problem is in the airway and en route facility congestion. I will provide something for the record, if you want.

Chicago, I think, might be a case in point. It is my understanding that the problem at Chicago-O'Hare is not airport capacity per se, but the capacity of the ATC center, the air traffic control center in that area, that essentially is the limiting factor. I will provide additional information for the record on that.

En Route Air Traffic Control System Delay Causes

ATA stated that additional information would be provided for the record on en route air traffic control (ATC) system delay causes, particularly at Chicago. This information follows:

Control of air traffic in en route airspace is effected by means of control positions commonly referred to as "sectors." Because of the loss of numerous controllers as a result of the strike, the number of en route sectors was reduced considerably. Additional qualified controllers are needed to staff additional control sectors. For example, before the August 1981 controller strike there were 721 control sectors; in 1984 there were 601.

The most recent FAA engineered performance standard (EPS) data for O'Hare Airport indicates an airport capacity capability to support 212 operations per hour. The current high density traffic airport rule at O'Hare limits operations during certain hours to 155. Likewise, FAA's Notice of Proposed Rulemaking on elimination of airport delays would also limit O'Hare to 155 operations during certain hours. In both cases operations to be permitted at the airport are far below its indicated capacity. Clearly, the delay problem at Chicago is not an airport congestion problem.

In meetings with airline executives on August 15 and 16, the FAA Administrator, in citing need for airline schedule adjustments at O'Hare, noted that at O'Hare en route procedural adjustments could be made to improve the airport acceptance rate. Specifically, traffic coming in from the west around 6 p.m., could be rerouted to navigational fixes east of the airport when traffic from that direction is light, thus reducing the heavy workload in the sectors to the west of the airport. This is a clear indication that the need for schedule adjustments at O'Hare is not related to an airport capacity problem, but to an enroute center capacity problem.

In a speech before the National Aviation Club on June 21, 1984, the FAA Administrator stated, "We're still shorthanded in some key facilities, especially the en route facilities." The present FAA recovery goal for en route facilities is a total of 6,242 controllers and air traffic assistants; 6,030 were on board as of July 31, 1984. However, 2,371 of those on board are developmental, and a source of immediate concern is on-the-job training for progression of these controllers to full operation status. This underscores that controller staffing shortages are a major problem.

NEED FOR ADDITIONAL RUNWAY SPACE

Mr. IGNATIUS. At the airports themselves, we need more capacity. Denver is one of the six airports on which discussions are going on. For a long time, we have known that we need an additional runway there. Until certain questions are resolved, partly involving environmental issues, that is not going to happen, but you need more expansion at Stapleton Airport in Denver.

The situation in Denver has been helped somewhat in recent weeks by the addition or the availability of an additional reliever airport. There are now three reliever airports to handle some of the general aviation traffic, the third one coming available just in the last several weeks.

It is both the en route and the airport. We need to do all we can for both of them.

Senator ANDREWS. The incentive that should be there under a free enterprise system for a community such as Denver to add another runway to take care of the flights that come in and out of Denver is not going to work if they know that no matter what they do on the ground, there is still congestion in these airway centers.

Mr. IGNATIUS. You are absolutely right. You are absolutely right. Again, this is a complicated business, and you will have real experts following me. But it is my impression that you can relieve airway congestion by opening up additional sectors. To open up additional sectors, you need equipment and people.

The equipment, generally speaking, as I understand it, is available, but the people aren't. This comes back again to the need to make sure that we have sufficient numbers of controllers to provide the capacity to relieve the congestion that we are currently experiencing.

Senator ANDREWS. In a sense what you are suggesting, Mr. Ignatius, is that as your Denver flight was delayed coming into Dulles, a noncongestion airport, we are told, it was delayed by the Cleveland center. Perhaps what they need is not just additional air traffic controllers in the Cleveland center, but maybe another center at Louisville to handle flights going through.

Mr. IGNATIUS. Or additional sectors.

ADDING ADDITIONAL FLIGHT PATHS

Senator ANDREWS. In your understanding, is there room, in essence, to set up what would amount to an interstate highway system, or an upgraded highway system, in the sky by adding some additional flight paths to the already congested flight paths?

Mr. IGNATIUS. We believe there is. There are any of a number of things involving separation standards, both horizontally and vertically. Again all of these things must be done within the overriding consideration of safety, but we think there are a number of things that, in effect, will increase ATC, air traffic control system capacity. On pages 4 and 5 of my statement, I have listed a number of specific things that the airlines have called to the attention of the Administrator that involve both personnel matters as well as operational matters.

Senator ANDREWS. You have also experienced or your clients have experienced this red sector problem wherein there are over-congested areas in the airways of this country that could better be addressed maybe by setting up more airways or some other way. There are, indeed and in fact, these red sectors that cause all kinds of problems that supersede whatever problems might be on the ground.

Mr. IGNATIUS. That is exactly right. We have experienced that and we continue to. Again, coming back to the Business Aircraft Association, they have suggested that they would encourage their general aviation operators to avoid those red sectors if the FAA could provide the information in a timely way to them. We think that is a step in the right direction. We hope that this will work.

Again, the main thing is to create additional sectors, or to take other actions that will assure sufficient capacity for all of the users of the system.

FLIGHTS SCHEDULED FROM NATIONAL AIRPORT TO DULLES

Senator ANDREWS. Mr. Ignatius, part of the problem is airport congestion, which is something that the airlines affect.

National Airport is acknowledged to be congested, yet the airlines schedule flights from National Airport to Dulles, from National Airport to Baltimore. Does this make a whale of a lot of sense out of a congested airport?

How should we remedy that? Should the FAA put out a ruling that a commercial airline shall not schedule a flight of less than 60 miles?

Mr. IGNATIUS. As you know there were arbitrary——

Senator ANDREWS. I know about the extenuating circumstances and all of that, but those extenuating circumstances could probably be corrected in a better way than just superimposing more flights out of National Airport.

Mr. IGNATIUS. The airlines schedule flights in accordance with passenger demand.

Senator ANDREWS. There are a lot of people who want to fly from National to Dulles, you are telling me, because there is no better way. [Laughter.]

Mr. IGNATIUS. There are more flights taking place at Dulles. With the growth in Northern Virginia, I suspect those flights will continue to grow. Meanwhile, National, as everyone knows, is a very convenient airport so people like to use it, and the airlines schedule with things like that in mind.

Senator ANDREWS. I thought this subcommittee put funds in for I–66 so people would be better off driving to the Dulles area rather than getting on an airplane and flying to Dulles.

Mr. IGNATIUS. That time will come.

Senator ANDREWS. The thing that we are also a little concerned about is, have we gotten to the point—this may be a difficult question for you to answer. Have we gotten to the point in this country where if we do in fact, in the six major congested airports, have capacity problems due to noise regulations, and highway access to the airports, and a host of other things—do we have a problem that could be best addressed, since we in the Federal Government also fund Amtrak, by telling some of these people that are traveling short distances to use the rail instead of using the overly congested airport facilities to fly short distances?

Mr. IGNATIUS. You would not expect the president of the Air Transport Association to show any particular expertise in that regard.

Senator ANDREWS. I am sure I wouldn't, but wouldn't it be to the advantage of the Air Transport Group to have, let's say, timely operation of longer distance flights, rather than to be all cluttered up trying to be in the short haul operation to the point where your long distance connections suffer?

Mr. IGNATIUS. These are important questions that you raise, clearly.

Senator ANDREWS. They could be addressed by the FAA, or by a voluntary action on the part of the air carriers themselves.

Mr. IGNATIUS. I think in time these matters have a way of taking place. They happen in a free economy sometimes perhaps more slowly than a systems analyst might, in the majesty of his own report, wish or expect. We have a way of adjusting over time to forces and developments. Meanwhile, I think we are a long way from having to ration, if we take the kinds of steps, straightforward steps, that we believe are available in the short run and in the longer run through funding of the expansion and modernization program that I spoke of earlier.

Senator Andrews. Thank you very much, Mr. Ignatius.

Mr. Ignatius. Thank you, Mr. Chairman.

Senator Andrews. Our next witness, of course, is Administrator Donald Engen of the FAA. He is accompanied by Mr. Ray Van Vuren, Associate Administrator for Air Traffic Service.

FEASIBILITY OF REHIRING PATCO PEOPLE

Senator Lautenberg. Mr. Chairman, before Mr. Ignatius leaves, I just wanted to ask one question, if I might, a brief question. I hate to impose on the subcommittee's time, but you are doing such a great job, it is a treat to be here.

I ~~just~~ want to reemphasize one thing that has been said, and that is, you talk about fully trained controllers. You commended the chairman, appropriately so, for enticing those who are on the job and who are trained to stay longer. Certainly that should be the case. Then you talked about not only quantitative, but qualitative.

We had incidents of concern at nearby airports, I believe they were related to skill lapses, or attention lapses, or what-have-you, of not fully trained people at the helm of the air traffic control center. Couldn't we do something that would expedite the solution to these problems if we got fully trained people back on the job as quickly as possible?

You talked about doubling the schedule at the training school. But if we could go out there and hire people—I don't want to get into the political ramifications, I am not talking about return to senior status, or otherwise. I am talking about simply trained people on the job quickly. It would have an almost immediate effect, don't you think, of some sort on reducing these delays?

Mr. Ignatius. Administrator Engen, who bears the responsibility for operating the air traffic control system, has stated that he thinks it would be inadvisable to hire back the PATCO people, that that would not be an effective thing to do. So I would think that is a question that you should put to him.

Senator Lautenberg. But he is talking about it from another aspect. I think he is talking about the juridical, or what-have-you. I am talking about the operation. Not being a lawyer, I have the benefit of not dealing with the other aspect.

You as a senior member of a very responsible organization, what would your view be. Do you think that if we could get lots of good people back on the job in a hurry, we ought to do it?

Mr. Ignatius. Senator, first, when the PATCO strike occurred, the airlines supported the President's action. In terms of the current situation, if your question is, should the PATCO people, some or all of them, be hired back——

Senator Lautenberg. Not the PATCO people. These are trained air traffic controllers who have years and years of experience on the job. If we can get those people, forget about what their designation was, or were they union, should these people in the interest of American transportation, aviation, public safety, et cetera, should we hire those people?

If one needed a brain surgeon, you wouldn't ask whether or not he had been punished 40 years ago for belonging to some organization.

Mr. IGNATIUS. There again the FAA people have said that they believe there were two kinds of problems. One was what you call the juridical problem, but the second one, they stress, is that they thought there would be an on-the-job problem that would be counterproductive if you mix the people who stayed on the job with those who left the job.

Again, I must yield to them. They are the people dealing with this. I am not an expert in this, but I have attempted at least to tell you what I understand the FAA believes the problem to be, Senator.

Senator LAUTENBERG. Thank you.

Senator ANDREWS. Thank you very much.

We will now hear from Administrator Engen and Ray Van Vuren, the Associate Administrator for Air Traffic.

Nice to have you, Mr. Administrator, welcome. This is the first appearance you have made before the subcommittee. We have had the opportunity to visit with you many times. I think everyone has viewed your appointment with a great deal of praise.

The earlier witnesses, I think, testified that the problems we are faced with now didn't arise during your watch, so to speak, and that you are beginning to respond. The reason for these hearings is to find out how we can help you respond, and also to make sure that you are responding in the right direction just in case you thought we were being too easy on you.

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

STATEMENT OF HON. DONALD D. ENGEN, ADMINISTRATOR

ACCOMPANIED BY RAYMOND J. VAN VUREN, ASSOCIATE ADMINISTRATOR FOR AIR TRAFFIC

PLANS TO IMPROVE AIR TRAFFIC SYSTEM

Mr. ENGEN. Thank you very much, Chairman Andrews. I appreciate that very much. Senator Lautenberg.

To conserve time, I will give you a précis of my statement, which I furnished for the record.

I am indeed pleased to appear before you here today and discuss the state of the air traffic system, and our plans to improve that system.

A concern that we all share about air travel today is the problem of delays in the system. Delays for the first 7 months of 1984 are up 80 percent over those for the same period last year. This has generated a lot of publicity and, quite naturally, consternation among air travelers. I would like to assure you that we are working diligently to try to alleviate this problem.

FAA recently convened a think tank, a group of about 40 representatives of commercial, general, and military aviation, along with our own people, to examine the issue. Three days of study and discussion led to a better understanding on the part of all concerned of the causes of delays, and a number of specific recommendations were made to try to solve the problem.

I should point out that one of the causes of delays is something that we would not want to change, that is the nationwide economic recovery which has stimulated an unprecedented demand for air travel. The airlines will seek ways to meet that demand, and we of the FAA must provide the means for them to do that.

Other factors which have an impact on delays are limitations on the ground which include runways, taxiways, and gates, computer capacity, air traffic staffing, weather, and schedules. The FAA can, to some extent, affect limitations on the ground through funding made available under the Airport Improvement Program. However, we must rely on the local and State governments to play a major part in this effort.

A significant problem in this area in recent years has been the lack of new airports, or the prospect of constructing new ones, coupled with increasing demand to limit capacity at our existing airports through curfews and impediments to airport expansion.

The subcommittee is already quite familiar with the National Airspace System Plan through your review during the appropriations process. I would highlight here the critical importance of our fiscal year 1985 funding for facilities and equipment that are vital to the National Airspace System Plan, and the continued safety of the entire national airspace. I do have some concern about the prospect of a continuing resolution.

In terms of staffing, we are currently at 88 percent of our goal of 6,627 operational controllers in the terminals, and 83 percent of our goal of 5,085 operational controllers in the en route centers. We have 1,904 controllers in various stages of training in the developmental pipeline.

There is no way that we can hasten the development of our controllers, however. The FAA asserted at the time of the strike that we would maintain our stringent training standards in order to ensure the safety of the air traveling public through our ATC system, and we have maintained those standards.

I would set the record straight concerning the increased FAA controller positions that you have heard of today. The FAA is continuing to build to our projected air traffic control level of 14,306 controllers—if Mr. Ignatius would excuse me for changing the number by one—but we are doing this while our total staffing number has not changed. We have taken steps to increase the controller trainee staffing and to increase the shift at our academy as you have heard today.

Our goals are under review constantly, and I am continually looking and asking the question, do we have enough?

PREPARED STATEMENT

Mr. Chairman, I would just stop there and make that as my opening statement, and respond to any questions that you might have.

[The statement of Administrator Engen follows:]

STATEMENT OF DONALD D. ENGEN

I am pleased to appear before you today to discuss the state of the air traffic control (ATC) system and our plans to improve the system.

One of the concerns we share about air travel today is the problem of delays in the system. Delays for the first 7 months of 1984 are up 80% over those for the same period last year. This has generated a lot of publicity and, quite naturally, consternation among air travellers. I want to assure you that we are working diligently to try to alleviate this problem.

FAA recently convened a "Think Tank", a group of about 40 representatives of commercial, general, and military aviation, along with our own experts to examine the issue. Three days of study and discussion led to a better understanding of the causes of delays and a number of specific recommendations to solve the problem. I should point out that one of the causes of delays is something which we would not want to change--the nationwide economic recovery which has stimulated an unprecedented demand for air travel. The airlines will seek ways to meet that demand. The FAA must provide the means for them to do that.

Other factors which have an impact on delays are limitations on the ground, which include runways, taxiways and gates; computer capacity; air traffic staffing; weather; and airline schedules. FAA can, to some extent, affect limitations on the ground through funding made available under the Airport Improvement Program (AIP). However, we must rely on local and state governments to play a major part in this effort. A significant problem in this area in recent years has been the lack of new airports or the prospect of constructing new ones--Dallas-Fort Worth is the last major airport which has been built and it is now 10 years old--coupled with an increasing trend to limit capacity at existing airports through curfews and impediments to airport expansion. Among the impediments cited by the Office of Technology Assessment report on Airport System Development are inadequate land availability, opposition by local communities, noise problems, and high capital costs.

We, of course, have more control over computer capacity, and air traffic controller staffing. Although we are working on increasing computer capacity through implementation of the National Airspace System (NAS) Plan, computer capacity has not been a limiting factor this summer. The Subcommittee is already quite familiar with this program through your review during the appropriations process. I would highlight here the critical importance of our Fiscal Year 1985 funding for Facilities and Equipment in order to obtain the necessary computers. The support of the Senate and House is appreciated, although there appears to be reason for concern about the prospect of a Continuing Resolution. As you know, the NAS plan is proceeding apace, and will provide long term capacity improvements.

One of the NAS Plan improvements, the Microwave Landing System (MLS), is moving into the implementation phase and will introduce a new era in the capabilities for approach and landing. However, we need short term solutions to address the immediate problem of delays, before the improvements from MLS will be felt in the system. Beginning in early 1986, 208 MLS systems will be installed over a 3-year period. The underlying goal of providing an all-weather capability for essentially all IFR-equipped airports is now within reach and by the end of the decade all-weather operations should become routine. We expect 1250 MLS systems to be in operation by the year 2000. MLS supports the goals of the NAS Plan for safety, capacity, productivity, and economy in the approach and landing function, and to support the growth of aviation well into the next century.

In terms of staffing, we are currently at 88% of our goal of 6,627 operational controllers in the terminals, and 83% of our goal of 5,085 operational controllers in the en route centers.

We have 1,904 controllers in various stages of training in the developmental pipeline. There is no way to hasten the development of our controllers, however. FAA asserted at the time of the strike that we would maintain our stringent training standards in order to ensure the safety of our ATC system, and we have maintained those standards.

As our current workforce becomes more experienced, we expect productivity to increase, and as more trainees become qualified, we should begin to see some improvement at those facilities which were hardest hit by the strike. We are reviewing our daily flow control restrictions, such as minimum in-trail separation, implemented to provide an added safety buffer as a result of experience level and numbers of controllers. However, in-trail restrictions are less of a constraint than runway capacity. I am personally reviewing the current target we have set for the number of controllers needed to handle air traffic. If I find that, due to increased traffic projections or other reasons, the number should be increased, I will not hesitate to ask the Congress, and this Subcommittee in particular, for more controller positions.

Two of the factors I mentioned affecting delays have historically been beyond the control of the FAA. The first, weather, will always be beyond our control. Perhaps, in the future, we may be able to improve system capacity in bad weather, or refine our capability to predict the weather, but the fact remains that bad weather reduces the capacity of an airport, for safety reasons. Perhaps less obviously, adverse weather in the airspace of an en route center can have a significant effect on air traffic even at airports where the weather is clear. This is especially true of thunderstorms in the summertime. As an example, on August 30, the nation was hit by a line of thunderstorms over Pennsylvannia, Ohio, and New York that at one point stretched from the Canadian border down to Tennessee. Planes flying east or west could not get through the storm, so flights backlogged quickly at airports such as O'Hare, National, and the New York airports. The problem became compounded at O'Hare because there wasn't enough ground capacity to handle the arriving flights from the west coast (which did not encounter any weather problems) because the flights trying to go east from O'Hare couldn't take off. Thus, a ground delay program for the west coast flights had to be implemented, even though the weather from the west coast to O'Hare was fine. Moreover, the weather at most of the affected airports in the east and midwest was clear--it was just the weather in between them that was the problem. Hundreds of airline flights throughout the country were thus adversely affected by this line of thunderstorms.

In all, 60% of the delays of 15 minutes or more from January to August of this year have been due to bad weather. For the comparable period in 1983, bad weather caused 51% of all such delays, and for 1982 the figure was 32%. Conversely, the percentage of delays of 15 minutes or more due to center flow management programs to control en route center traffic volume was only 14% for the first 8 months of 1984, while it was 20% for the same period in 1983, and 61% for 1982. So you can see that bad weather accounts for a significant portion of the delays we have been experiencing this year.

The second factor which has been beyond our control, airline scheduling, is something the FAA is prepared to adjust, if the airlines are not able to work out a satisfactory solution to the problem among themselves. Specifically, the problem is that many carriers, desiring to serve the public, want to serve certain airports at certain times--Atlanta Hartsfield at 8 o'clock in the morning, JFK at 4 p.m., Denver Stapleton at 10 a.m. The problem is exacerbated by the practice of hubbing, whereby a carrier tries to get a large number of flights into a specific airport within a particular timeframe, so that passengers can change to connecting flights scheduled to leave within a short time. This is a perfectly rational way for airlines to want to run their businesses, to provide maximum opportunities to their customers. However, it has led to a number of scheduling anomalies, many of which have been widely reported in the media.

Quite obviously, the number of planes scheduled to land at certain times at these airports so greatly exceeds the capacity of runways and taxiways that it would be physically impossible to land them all in those time periods. And no additional amount of controllers is going to increase the number of planes that can land at these airports. Airlines know that these schedules cannot be met, and that "delays" will therefore inevitably occur, yet they all want to be able to advertise a flight that arrives at these times. The same is true for departure scheduling.

The Notice of Proposed Rulemaking FAA published on August 20th proposes to have the agency prescribe minute-by-minute arrival and departure limits for selected time periods at six congested airports: Atlanta, Denver, O'Hare, LaGuardia, Kennedy, and Newark. This would entail the apportionment of the available runway capacity for those specific times, and the agency would set up a process for fairly distributing the available opportunities to carriers, as we did at the pacing airports under the interim operations plan.

However, we at FAA would much rather have airlines work out the scheduling arrangements themselves, without the need to adjust schedules by regulation. As you are no doubt aware, Mr. Chairman, such voluntary discussions about adapting schedules require a grant of antitrust immunity by the Civil Aeronautics Board (CAB). Eastern Airlines petitioned the Board for such immunity, and the Departments of Transportation and Justice, as well as a number of other carriers, filed comments in support of that petition. Pursuant to the CAB grant of immunity issued last Friday, FAA held the first "demand management" meeting beginning last Wednesday, September 5th. We expect the meetings to produce an acceptable solution to the scheduling problem. If not, however, the FAA is prepared to act through its regulatory authority. As described, any regulatory action taken would be strictly tailored to the extent and location of specific airport delay problems. The FAA is not in the business of economic regulation, and a return to the restrictive practices of the past would not solve the short term airport delay problems that we face in any case.

I might point out that the action FAA has taken in calling the "demand management" meeting is consistent with the recommenda- tions on demand management by the government-industry Think Tank. The group urged FAA to hold such a meeting and take the necessary regulatory action to implement the resulting scheduling changes so that demand better matches system capacity. The Office of Technology Assessment in its recent report "Airport System Development" also alludes to the desirability of considering demand management.

In addition to the recommendations concerning demand management, the Think Tank also recommended closer FAA/Industry collaboration, including the establishment of local think tanks in areas experiencing the most congestion and delays. We believe this is a sound idea, and expect to convene the first of these groups this month.

The Think Tank also recommended a number of changes in air traffic procedures to gain incremental increases in system capacity. We are studying a number of the recommendations, and if we can implement them without compromising safety, we will do so. If we can't, we won't. However, I should caution you that even if all of the recommended air traffic procedures were implemented, we would expect only modest increases in capacity.

Another recommendation, which is in the process of being implemented, is the centralization of air traffic control operational authority under the Associate Administrator for Air Traffic. This will give expanded responsibility to our Central Flow Control Facility in Washington, which will better enable us to make efficient use of available capacity throughout the ATC system, help reduce congestion and delays, and make the system more responsive to users.

In terms of controller staffing, I assure you I am taking action both to increase current staffing and to retain our experienced workforce, Mr. Chairman. One source of expertise during the rebuilding period has been our reemployed controller annuitants. I would like to acknowledge your recognition of the benefits of retaining these experienced controllers which led you to add to the Supplemental Appropriations bill the provision extending for a year the opportunity for our reemployed annuitants to receive full salaries along with their retirement benefits. This has recently been signed into law by the President, and we appreciate your efforts in the enactment of that provision.

That concludes my statement, Mr. Chairman. At this time, I would be pleased to respond to your questions.

PROBLEM OF RUNWAYS VERSUS AIRWAYS

Senator ANDREWS. Mr. Administrator, I appreciate your coming here today. I know that with these meetings that are going on, you have a busy schedule.

We hope that we can move our bill next week, if the House resolves its problem, and if we don't move the bill as such, of course, it will be folded into the continuing resolution.

You have heard a lot of discussion here today from various individuals very deeply involved in air traffic around this nation of ours.

How do you come down on the runways versus airways. Is this problem exclusively a runway problem causing the congestion at airports, or is it, as has been suggested, also a problem of congested airways?

Mr. ENGEN. Mr. Chairman, there are about four major factors that are driving the problem. One of them is the availability of concrete macadam at airports. The second is the rising economy and the desire and capability of the American public to travel. The third is scheduling concepts that the airlines are using. The fourth is the maturation, the coming of age of the new air traffic control force. Not one of those things is the key problem. They all go together, and each affects the other.

The reason we are having the scheduling conference that Mr. Ignatius spoke of about the six airports is that it is strictly an airport problem. These six airports do tend to drive the delays throughout the rest of the system.

For instance, under VFR conditions, Denver can accept 60 landings an hour; if all of a sudden it goes IFR, they are automatically restricted to 30 landings per hour. That, in turn, drives a 2-hour delay at every city in the United States going to Denver. So you can see how this backs up.

We do have sector problems as well, and I can address those separately, but it is really sectors, en route, and terminals. It is the entire system.

Senator ANDREWS. Part of the problem is the airways. In other words, when I am sitting on the runway at National waiting for 2 hours to take off for Minneapolis, which is in bluebird weather with plenty of capacity, the problem is not the terminating airport, it is the airway, the Cleveland center, as I understand it, that we have to cross through.

Mr. ENGEN. Yes, sir.

Senator ANDREWS. Does the answer lie in getting some new highways in the sky?

HIDDEN REASONS FOR EN ROUTE DELAYS

Mr. ENGEN. In a simple word, no. At this point in time, we have area navigation. People can fly from point to point virtually at will under positive control.

There are a lot of hidden reasons for delays en route, and one of them is indeed weather. We are finding that about 60 percent of our delays are weather generated. But also occasionally we do have equipment go down.

One time recently, we had a lightning strike near a center, and the entire center went down for a period of time. We had backups and we were able to handle that, but that drove delays.

A backhoe operator cut a major powerline going to our Kansas City Center about 2½ months ago, and that blacked out that center. We accommodated, but that also drove delays.

I don't want to say that equipment is the cause for delays, but I do want to make the point that there are many things out there that cause those delays en route.

Senator ANDREWS. You are saying that with more trained controllers in the Cleveland Center, the Cleveland Center has the mechanical ability to handle far more flights because the flights don't really go on one narrow path, they go over a number of different paths, and they are monitored by Cleveland as they pass through that area close to Cleveland.

Mr. ENGEN. Yes, sir. I am saying that Cleveland has the capability to control. Cleveland is manned at a level which can provide the traffic flow that we desire. It is not manned to the level that I am satisfied with yet, and we are trying to build that up.

Senator ANDREWS. The level that you are satisfied with comes down to the fact that there are currently 13,300 controllers in the system, including trainees, which leaves you about 1,000 controllers short of your whole recovery goal of 14,305 or 14,306, whichever it might be.

What specifically is being done to speed the entry into the system of trained controllers, because the committee notices, can't help but notice, that of the 13,300 controllers, only 7,600 are what are called fully qualified controllers. That is why we put through the amendment a month or so ago to retain 120 of these fully qualified, even more qualified, probably the most senior controllers in the system. It gets down to how do we upgrade the 7,600, even as such as how do we add another 1,000?

GOAL TO OBTAIN FULLY QUALIFIED CONTROLLERS

Mr. Engen. Maturation of the system is needed, and that is my goal to obtain fully qualified controllers. At this point, we have some 2,100 who are in the developmental stage. It takes time for a controller to qualify on the boards. Once he leaves our academy, it takes about 2 years at the facility to which he or she goes to become qualified in the sectors which they will manage.

Those 2,100 developmental controllers that I spoke of can actually work on the boards, and do in their training status but always backed up by a fully qualified controller behind them as they work the traffic, and a supervisor as well. The developmental controllers will mature with time. You asked me about how long it will take, and I see the developmental controller situation resolving itself in about June or July of next year.

There are 1,000 more controllers, going from 13,300 to 14,305, who are virtually in the pipeline right now. They have been selected for training, and they will be attending our academy under the double shifting that we spoke of, and they will be out sometime after the first of next year, perhaps February. They will then join the other developmental controllers, and in time they will become qualified.

We are at the numbers right now that we need, but they are not fully trained. Our problem, if there is such a thing as a problem, our management problem, is to get our controllers fully qualified.

Senator Andrews. You stated in August that the number necessary for air traffic control full staffing was under review and that a decision on the number would be reached in September. We read in the newspaper yesterday that the FAA was attemping to hire 1,400 new controllers. When will this occur? You just mentioned, I would assume, that during the next 6 to 8 months you will be bringing these people on board.

Mr. Engen. Mr. Chairman, those are the same people that we have been trying to get all the time. I don't know how the misunderstanding came through in the press, but it came through as if we were boosting it by a number. If you look at the statement made, and I believe this came from our meeting in Crystal City, the final number was 14,306. Clearly that was the number that was designed to get us at the level to which we always said we wanted to go. They are not above the ceiling that we determined.

You said, when will the study be done, when will you be able to tell us about the need for additional controllers. This is being done right now, and we are looking at it.

Senator ANDREWS. This 14,306 is then the full staffing level?

Mr. ENGEN. It is, yes, sir.

Senator ANDREWS. When do you intend to reach the full staffing level?

Mr. ENGEN. I am looking at February 1985.

NEED FOR SUPPLEMENTAL FUNDING

Senator ANDREWS. February 1985, then that is the reason that we put this hearing together. When your predecessor submitted the budget he said: "We have 13,373 total controllers in the current work force." He requested, for fiscal year 1985, the 13,795.

If my arithmetic is correct, that is 511 shy of what we heard was your current projection the last time you mentioned it, and the current work force is for some 700 shy of the projection figure you just gave me this moment. So we are hundreds of controllers shy of what you just told us you wanted to have, or would have on board in February or March of next year.

The question then being, have you run through the Office of Management and Budget a request for supplemental funding, or do you have the permission of the Office of Management and Budget to now testify before this subcommittee to amend FAA's request to the staffing level of 14,300?

Mr. ENGEN. Mr. Chairman, when I came on board in April this year, one of the first things I did was to look at the authorization for fiscal year 1984. I found that it was indeed 14,306, and we were authorized to go to that level for fiscal year 1984. I am talking in terms of 1984 figures, sir, and that is my authorized ceiling.

Senator ANDREWS. Your authorized level is 14,306, unfortunately, government employees are an awful lot like everybody else, some of the lobbying people we see in this group, some of us who are in the Senate, some of us who back home are the farmers or the lawyers, or whatever, we need to get paid. Somehow or another, just having an authorized level of 14,300 is not going to get you the controllers you want to have on board by next February if the funding level that you have requested remains at 13,795.

Mr. ENGEN. You have me across the breakers here.

Senator ANDREWS. Have you got some magic dollar stretcher down in the FAA that you can take the funding you requested for 13,795 and apportion it out so that you cover 14,305 employees?

Mr. ENGEN. I understand, Senator, that I was authorized to go to the level of 14,306.

Senator ANDREWS. You are authorized to go to 14,306, that is absolutely correct, but your predecessor asked this subcommittee of mine for the funding to handle 13,795. Many times agencies come up, thank God for that, and ask for funding levels or employment levels significantly under the authorization.

We have, that is the reason for these hearings, perceived a sudden need—not sudden, but it is suddenly becoming perceived, it has been growing for 4 or 5 months—to the business of having adequate air controllers on hand. The funding level asked for by the Office of Management and Budget, asked for by your predecessor, comes short of what you now say, and the press reports, is necessary.

We can't do it with smoke and mirrors. We have got to do it with a dollar request. The train is sort of on the track and moving, we will include transportation appropriations in the continuing resolution in the next 2 weeks.

Mr. ENGEN. Mr. Chairman, if I may, let me ask the continuous memory represented by Mr. Van Vuren here to see if he can further clarify this.

Senator ANDREWS. Sure.

Mr. VAN VUREN. I will try. The number 13,795, I believe, is the funded number that you mentioned that was authorized to us.

Senator ANDREWS. It was authorized to you perhaps by the Office of Management and Budget, but it is the level that you requested of us and stated was adequate to carry you through the next fiscal year, which ends October 1, 1985.

Mr. VAN VUREN. Yes; that is based on our ability to recruit and train, that is what that number was based on. Our target number is still 14,306. It was based on what we could actually recruit and train in the academy, and then get into our field facilities. The target number that we are looking at, which we think we are going to make by October 1, is about 13,844 people.

Senator ANDREWS. That goes with your original estimate to us. But the article that I have been reading in the newspaper yesterday and the statement made by Administrator Engen just a moment ago right here state that you anticipate having 14,306 on board next February or March. I didn't hear you wrong, did I, Mr. Administrator?

Mr. ENGEN. No.

Senator ANDREWS. This is a great disparity with what your shop said was adequate 6 months ago. The reason for the hearings is not necessarily to bring you great folks together. The reason for the hearings is that if that is indeed and in fact the case, we have to address it.

Mr. ENGEN. Let me say, Mr. Chairman, if I may. Let me go look at this. You have caught me with my socks down on this one. I wasn't aware of this viewpoint. May I get back to you for the record on this?

Senator ANDREWS. Surely, we will be glad to leave the record open for hopefully not too many days because we have got to make the appropriate amendment in the bill, and the bill, as you know, has already gone through the full committee and will be on the floor of the Senate.

[The information follows:]

LETTER FROM DONALD D. ENGEN

SEPTEMBER 11, 1984.

Hon. MARK ANDREWS,
Chairman, Subcommittee on Transportation, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: To settle some of the misunderstanding that appears to have developed from our dialogue during last Friday's hearing, I have prepared a recapitulation of the history of our estimates. In sum, I believe it demonstrates that the Federal Aviation Administration (FAA) continues to make necessary adjustments within the President's budget and the pending Senate bill. It is unfortunate that we did not catch a bookkeeping discrepancy between how we counted the "controller" work force in earlier analyses and a somewhat different counting of the very same people after their positions were reclassified in the intervening time.

In addition, it is true that we will be hiring more controllers in fiscal year 1985 than originally anticipated, but they are to replace unexpected losses experienced the year before—and therefore their salaries were already contemplated in the dollar estimates. These adjustments are still within the number of positions in our original request. Per the direction in your Report, FAA is making every effort to find the relatively small sum necessary to finance the increased air traffic training load. It will, as always, consult with your Committee on any significant reallocation that is necessary.

I am sorry about any misunderstanding that may have occurred on Friday morning, and trust that this analysis will clear it up to your satisfaciton.

Sincerely,

DONALD D. ENGEN, *Administrator.*

AIR TRAFFIC STAFFING—FISCAL YEARS 1984–85

1. *Fiscal year 1985 congressional submission—February 1984*
   - FAA requested *19,276* positions in fiscal year 1985 for operation of en route and terminal air traffic control facilities.
   - An average employment level of 18,799 was estimated and funded in the submision.
   - We anticipated an employment level of *19,095* at start fiscal year 1985 and end fiscal year 1985 employment of *18,502.*
   - Of the *18,502,* our internal allocation was *13,795* to the controller work force and *4,707* to overhead positions.
2. *Subsequent events—June 1984*
   - Some of the positions classified as "overhead" (Communications Specialists) were reclassified by OPM to "controllers" (Job Series 2154). This increased the estimated *13,795* controller work force at end fiscal year 1985 to *14,089.*
   - By June of this year, FAA realized that the start fiscal year 1985 employment goal of 19,095 (including 14,306 controllers) would not be met, due to a somewhat higher attrition rate than anticipated.
   - To replace this shortfall, FAA increased its planned hiring of controller trainees in fiscal year 1985 from approximately 1,200 to 2,400, an increase of *1,200 plus.*
   - Funds to pay the salaries of these additional controller hires are already in the budget. The budgeted fiscal year 1985 average employment (18,799) is higher than our now currently estimated fiscal year 1985 average employment.
   - However, additional training money (now $10 million) is required in fiscal year 1985. The Senate Appropriations Subcommittee was so informed and FAA was directed to ". . . fully fund controller training costs within the total provided." [for the operations appropriation]. (Senate Report 98–561, 98th Congress, 2d Session, p. 25).
   - The FAA expects to make several small adjustments to finance the $10 million for an increased training load.
   - FAA has revised its end-year fiscal year 1985 employment goal of *14,089* controllers to *14,306* . . . our originally planned start fiscal year 1985 controller work force.

- FAA continues to manage its air traffic employment within funds and positions reported by the Senate Appropriations Committee.

DOLLARS NEEDED FOR MASS UPGRADING

Senator ANDREWS. Mr. Administrator, you haven't been served that well by some of your staff if you are saying, we need this level of controllers, the people who testified a moment before, in the last 2 hours, have said that we desparately need it, and yet your staff tells you that everything is going to be all right with a funding level for 13,795 when you and the industry are saying we need 14,300 on board by next February or March.

Let me also add, and I hate to be always looking at dollar signs, you have also announced that you plan a mass upgrading of air traffic controllers.

We have identified that you now have 7,600 fully qualified controllers I would assume that if you are going into this 24-hour-a-day training program in Oklahoma, and I applaud you for it, because from the testimony that we have heard earlier today, and from what I have perceived in my mail and in my own experience, this is vitally necessary. But if you upgrade in training that rapidly, Mr. Administrator, your figures for dollar needs are going to be different because you will have to be paying, I would suspect, fully trained controllers more than you pay trainee controllers. Isn't that essentially true as well?

Mr. ENGEN. Essentially, Mr. Chairman, we are upgrading the academy from existing assets. We are not bringing on new people. We are not creating new positions in that sense. We are bringing in people who are currently employed in other places.

Senator ANDREWS. That is right, but don't you pay them more based on ability? Doesn't a fully trained air traffic controller earn more than a trainee?

Mr. ENGEN. Yes, sir.

Senator ANDREWS. So as you speed up the date at which they become fully trained, fully qualified, you also step up their pay?

Mr. ENGEN. They wouldn't receive any more than they would normally be receiving in the current grade that they are in, Mr. Chairman.

Senator ANDREWS. The main reason for me bringing that up is because you haven't been given the adequate information on these other things. I want to make darn sure that you have your people go back to the drawing board, or you take them out to the woodshed, or whatever you do, to get some adequate figures up to us so that we can take care of the needs that have been expressed by the traveling public's experience during this past summer, and by the testimony from these expert witnesses who preceded you, and, Mr. Administrator, even more by your own statement, as head of this organization, and a man who brings to this organization some of the best qualifications that we have ever seen in the history of the FAA.

If you are going to realize what you say is necessary, some way or another we may have to make some amendments in the next week or two to this bill.

Mr. ENGEN. I assure you that I will not exceed the authority that you have placed on me. I will respond.

,Senator ANDREWS. Let me get the other thing clear also, because our overall bill, whether it is a separate bill or a continuing resolution, comes under the eagle eye of the budget limitations of the Office of Management and Budget, in order not to be targeted for a possible veto, not to get a lot of flack on the floor of the Senate, the floor of the House, and in the conference, we also need your people to alert the folks in DOT to get the administration to, in effect, come up with a budget supplemental to handle these additional 700 controllers, because without that kind of a supplemental, we could run into a bit of trouble on down the line. All of this has to be done in a rather expeditious way.

Mr. ENGEN. I will respond.

MAXIMUM NUMBER OF AIRCRAFT THAT CAN BE HANDLED

Senator ANDREWS. Mr. Administrator, does the FAA have data on the maximum number of aircraft that can be handled by current tower and en route controllers?

Mr. ENGEN. By the individual controller, Mr. Chairman?

Senator ANDREWS. The current tower numbers and en route controllers, do you have data on the maximum number of aircraft that you can now handle?

Mr. ENGEN. Yes, sir, I do, and I would ask Mr. Ray Van Vuren to give some specifics, if he would.

Senator ANDREWS. Rather than express that in arbitrary terms, how does the current activity compare to these maximum levels? How close to present saturation are we, is the figure I am looking for. Do you have that information?

Mr. VAN VUREN. Yes, sir. In the sector area, you heard reference to the red sectors before.

Senator ANDREWS. That is right.

Mr. VAN VUREN. Red sectors are based on 55 operations in a sector in a given hour. That is what we identify as a red sector. It does not mean that a sector is being saturated or it is unsafe. It just means that it is for us to look at and further analyze those sectors which we are doing right now.

Senator ANDREWS. But if you add more controllers, trained controllers to that sector, you then can handle more flights with safety and without being saturated?

Mr. VAN VUREN. Not necessarily, because what happens is that only one individual can operate the microphone and talk to the airplane at one time in that sector.

We do look at sectors where we have problems. We identify a red sector to see if that sector can be split, and make it two sectors rather than one, either as a full-time sector or a part-time sector.

Senator ANDREWS. In other words, what you are telling me is that if the Cleveland sector reaches saturation, you can't handle that by adding more controllers in the Cleveland sector, you have to set up a Louisville sector to take over some of the en route space that is available in that part of the country so it will have separate microphones and separate radar screens, and all the rest.

Mr. VAN VUREN. Yes; you need a separate sector with a radar and the equipment all set up. However, there are cases where you cannot even split a sector because of the close proximity of airways and everything else in adjacent sectors, and you have to maintain that sector as it is. The reason for that is because it could be a primary flyway where a lot of airplanes are crossing back and forth, either north or south, or east or west.

Senator ANDREWS. What then are your plans? Do we then hide our head in the sand and say that our transport system in the airways has come to its capacity, or do we find a way to move the Nation ahead with further capacity for the demands of the traveling public.

COMPUTERIZED SECTOR CONTROL

Mr. ENGEN. No, sir. We have a number of programs in being right now, and one is being developed which addresses this. The one that is being developed, let me say, is our sector loading software program where we take those airplanes that have filed flight plans—we are dealing with airplanes in the controlled airspace now—we take those airplanes that have filed flight plans, and we put them into our computer. The computer will forecast how many aircraft are going to be in a given sector at a given time.

This is under development right now, and we started running it this month. Hopefully, during this month, we will have this new program on line. It uses the forecast schedules of the airlines. It uses as much advance information as we have. What we are working on right now is to be sure that we can pick up flight plans that are filed 30 minutes before somebody takes off.

We will be able to forecast these sector loads, and also that way we will be able to tell the NBAA and those people who desire the information where the red sectors are.

Senator ANDREWS. But you do not have now in mind ways of adding sector control systems so that you can get additional capacity through these given red sectors?

Mr. ENGEN. Yes, sir, we do. Mr. Van Vuren said that we split a sector.

Senator ANDREWS. He said that we have a limitation of radar screens, microphones, and the rest. You are continuing to give us the idea that with more trained controllers, we can get more flights through these sectors.

SPLITTING SECTORS

Mr. ENGEN. When you split a sector, it means that you activate another board some place and another microphone, and somebody shares the responsibility. We currently have 601 sectors in the United States. When these sectors become loaded, we have the capability to split a sector and call in additional people to man that sector, perhaps with a supervisor if it is going to be for a short time.

We are really talking about limited periods of time. We are talking about a period of 15 minutes, perhaps, in a 24-hour day. We are not talking about 24 hours because traffic loads come in very discrete bunches.

Senator ANDREWS. You have a request, Mr. Administrator, in your budget for that capability to split these sectors so that you can add that increased capacity?

Mr. ENGEN. We already have it in the center, Mr. Chairman. We don't have time to go out and hire more people. These are people who come in and perform overtime or people who would be on the floor and are not busy at that time. We accommodate within the level of staffing that we have right there.

Senator ANDREWS. Let me ask the question a different way, then, because I am not quite understanding what you are getting at.

The Cleveland sector has been identified as being a red sector. It was just said that you can handle a limited number of flights with one radar screen and one microphone. The question then comes, since that is a responsible sector for holding flights on the ground, delaying flights in the New York, the Washington area, and in the Chicago area, do you have the equipment in place to split that sector?

Mr. ENGEN. Yes, sir, we do.

Senator ANDREWS. Then you have adequate capacity for far more than 55 flights an hour through that sector.

Mr. ENGEN. On a surge basis, yes.

Senator ANDREWS. On a surge basis limited only by the amount of trained controllers that you can put in control. So we get back again to the fact that the trained controller number is the key to getting more flights through this area?

Mr. ENGEN. That is correct.

Senator ANDREWS. The air traveler and the air transportation corporations are not being told that there is a limit to the number of flights they can push through in a given area of the country. The limit is there because there is a temporary shortage of trained air traffic controllers?

Mr. ENGEN. We know the amount that can be scheduled through, Mr. Chairman, and through our central flow control facility in Washington, DC, we accommodate these surges.

EXTENSION FOR RETIRED CONTROLLERS

Senator ANDREWS. You mentioned earlier, Mr. Administrator, that the President signed on August 22 an extension of our provision for retired controllers. Have you implemented this provision?

Mr. ENGEN. It is in being right now.

Senator ANDREWS. These controllers are staying on because of it?

Mr. ENGEN. They are. The current law would expire on December 31, 1984.

ISSUE OF REHIRING FIRED CONTROLLERS

Senator ANDREWS. The subcommittee would be remiss in its review of the air traffic control system if the issue of rehiring fired controllers weren't addressed.

Specifically, since the 3-year period following the illegal PATCO strike is up, do you see any change in the administration's policy barring fired controllers from consideration for FAA employment?

Mr. ENGEN. Specifically, Mr. Chairman, I see no change in the policy to not rehire the air traffic controllers.

As I move throughout the Nation, and I have gone to a great many centers—I have not covered them all yet, but I will cover them all—I talk to people and one of the questions I ask them is how they feel about this particular situation. I have received an almost extreme negative response. I am convinced that I would create a far greater management problem if I were to do that than I have in trying to train the controllers that are on board right now.

CONTROLLERS ELIGIBLE FOR RETIREMENT

Senator ANDREWS. How many of the current 13,300 controllers are now eligible for retirement?

Mr. ENGEN. Roughly 2,274 are eligible.

Senator ANDREWS. 2,274 are eligible at this point?

Mr. ENGEN. Yes.

Senator ANDREWS. How many will become eligible during the next year?

Mr. ENGEN. Roughly 300 or 400. Using history, if I can, we have continually maintained that bank. It does not mean that those people are going to walk out the door. As I talk to the controllers, they are interested in staying on. Historically speaking, about 315 retire each year, and this may vary by plus or minus 25 or 30. We are talking about an attrition of about that number. So please don't become alarmed by the figure of 2,274 controllers because they would not all walk out the door at the same time.

Senator ANDREWS. But as the author of the amendment that allowed the 120 that were going to be forced out of the system, to stay on in the system, do we have to enact specific legislation during the next year to retain some of these 2,200?

Mr. ENGEN. No, sir. I am working on this on an individual case-by-case basis. I have worked through OPM. I have made sure that we can save the leave of these people, and that I can, in fact, extend the exigency 1 year for retained leave. I am trying to accommodate to different things that I can do for each individual, and on a one-on-one basis trying to talk each individual into staying with the FAA.

Senator ANDREWS. But we do not need enabling legislation for these 2,200 prospective retirees such as we needed for the 120 or so?

Mr. ENGEN. No, sir, we do not.

Senator ANDREWS. For none of them?

Mr. ENGEN. For none of them.

STUDY TO EXAMINE CAPACITY OF CURRENT SYSTEM

Senator ANDREWS. You informed the carriers last month that FAA is about to commission a study to examine the capacity of the current system and its capability to meet current and future demand. Do you have that information available now?

Mr. ENGEN. No, sir, I do not, and that will be an ongoing study done by a third party. The contract is in the process of being let at this time, and it will run for a period of almost 1 year. It doesn't mean that we will wait for a year to get the answers, but it does mean that it will be running for the next year.

Senator ANDREWS. Does this study promise to tell us anything more about capacity, current and future capacity, than the studies underpinning the National Airspace System Plan?

Mr. ENGEN. Yes, sir, it certainly does. It will look at sector workload. It is going to look at the indices generated by arrival and departing and en route aircraft. It is going to look at airport airside elements. It is going to look at what the system is capable of doing. It will look at the sectorization we spoke of. It is going to run the full gamut of the entire airspace system.

Senator ANDREWS. Will the results of this study be available to the subcommittee before the next appropriation cycle?

Mr. ENGEN. I would make available whatever we have at that time. I am not sure at what point there will be a report, but I would be pleased to make available whatever we have at that time.

CENTRALIZED CONTROL

Senator ANDREWS. Given the emergency nature of the problem, it would be the committee's hope that you could have enough preliminary information from this study so that when you look at your next fiscal year's budget, you can be responsive to the needs of remedying problems that have been so evident in the past several months that were brought up in the testimony.

We understand that you intend to centralize in Washington flow control decision. How and when is this going to be accomplished, and what direct benefits accrue to this type of centralization?

Mr. ENGEN. When I convened the think tank, one of the recommendations that the think tank made was that we look to a more centralized operational flow of information policy. As you know, I have nine regions, and the think tank felt that we could do a more responsive job by having the centralized control.

I went about this quickly and had Mr. Van Vuren make the necessary plans to implement this. We are having a meeting on this next week where we will discuss these plans with our employees, and the implementation of this plan, which I would envision will take place over the next 3 months. After the first of this next year, I will have in place the working centralized organization.

I really do think that we will obtain more flexibility by managing the air traffic system through the central flow control facility. We are drawing into one place—it just so happens that it is Washington, it could have been Kansas City or Seattle, WA—the entire operational control, and we will handle it on an hour-by-hour/day-by-day basis.

RELIEF TO FLIGHT SCHEDULING PROBLEMS

Senator ANDREWS. Given the number of air traffic controllers you now desire to have on board by the end of March of next year, do you anticipate that that will give you some relief to the flight scheduling problems that you are now working on these sessions with the airlines?

Mr. ENGEN. I do, sir.

I think, first of all, the scheduling process that we are working out with the airlines right now is a much-needed, short-term effort.

I am very appreciative of the airlines and their cooperation. I might add that just the other day, I think, we resolved Atlanta. Yesterday, we worked on Denver. The response has been very, very good, it really has. I think the short-term solution is going to have almost an immediate effect.

Senator ANDREWS. What is your prognosis for settling this over the weekend, or are you going to have to come out with a rulemaking?

Mr. ENGEN. I am very pleased with the movement that we have. The airlines have gotten together. They are cooperating. We have agreement in the case of Atlanta, and we have an agreement in the case of Denver. Today, we are working on O'Hare. It is moving along at a very good pace.

Senator ANDREWS. So you are pleased with the progress, and what you are telling the committee, and through us the Nation, that this type of arrangement is only a temporary one, because if you get the number of controllers you are looking for, additional capacity will be built into the system so that these limitations will no longer have to be at that level.

Obviously, we are always going to have to have some limitation against extreme concentration out of any one airport, or out of any one area, but the type of restrictions that you have been talking about now will not have to be that stringent if we get the additional controllers.

Mr. ENGEN. I would not tie it just to the additional controllers, Chairman Andrews. Remember the four points that I made.

Senator ANDREWS. That is right.

Mr. ENGEN. It really comes down to those four points, of which the controllers are a part.

Senator ANDREWS. But you are prioritizing the need for the additional controllers.

Mr. ENGEN. Along with the scheduling, yes, sir.

Senator ANDREWS. The scheduling and the equipment.

Thank you very much, Mr. Administrator. We are looking forward to the information that you will give us on this supplemental request. I would hope that you could get it to us by Monday or Tuesday of next week. We will have other material, of course, for the record, including questions and statements of members of the committee, documents provided by carriers, and affected associates.

Senator Lautenberg, do you have any questions?

Senator LAUTENBERG. I know I have been a burden to the Chair here.

Senator ANDREWS. It will cost you down the line. Wait until we have a tough bill coming up and we need some support.

Senator LAUTENBERG. I am on the Commerce Committee, and I sit on the Aviation Subcommittee, therefore, my interest is very deep.

Senator ANDREWS. We are glad to have you.

NO TO QUESTION OF WHETHER TO REHIRE

Senator LAUTENBERG. I appreciate your indulgence, Mr. Chairman. This was an opportunity because you are appropriately considering responsible funding for an important segment of our functioning in our society. The opportunity to hear the Administrator's testimony is very valuable to me.

There is one thing that I would like to ask you about, if I might. You talked about the essentially informal survey that you ran among your staff of air controllers. You said you visited lots of the centers, and the response was universally no to the question about whether to rehire.

I am not championing any cause except the American public, safety, transportation, wanting to see this economic resurgence continue. I really do want to see that take place, and anything we can do to make sure that happens, you mentioned that in your own remarks, we ought to.

You were, sir, in a position of leadership in the past where you had to give an order on occasion, where you had to deliver a command. Were you always so democratic? Did you always kind of solicit views before you made a decision?

Mr. ENGEN. I have tried to become very civil. [Laughter.]

Senator LAUTENBERG. I will submit to you that I was a corporate leader, and sometimes I made decisions that for the moment were unpopular, but I knew were in the best interest of my company, my organization.

In terms of the chairman's responsibility in trying to get the appropriate funding for the needs of the air travel system, I think that it is going to be a lot more cost effective to hire people who have already been trained. Forget about what club they belong to, forget about what union they belong to, these are individuals who can provide a service to this country.

We would never deny ourselves the opportunity to use these skills and talents if we had the chance in whatever new way, cancer research, you name it. We have no right, in my view, to deprive the traveling public, or our economy, of the service of these people.

I think that it would be much more cost effective, which is the chairman's concern, to not spend more money on training than we have to to get this system up to snuff, because no one, as I have seen it, has itemized the cost of these delays, Mr. Chairman, throughout the economy.

Forget about extra fuel, overtime, and delay. What does it cost this society of ours to have people sitting on their airline seats, waiting to go to work in some other city, to deliver a proposal, make a sale, et cetera. The cost is enormous.

I think that it would be a lot cheaper, in terms of direct outlays, to hire people who have training, who could be plugged into the system very promptly, instead of continuing to expand the training system that may not be needed.

The chairman eloquently pointed out the differences between requests for funding and the staffing of the organization. I think that there is an easier way to approach this problem. I know that it doesn't solve all problems. I am very interested in aviation. I had an airplane, and I know a lot of what is going on out there. I know that we can upgrade.

COMPARING AMERICAN AND FOREIGN AIRPORTS

Do you think, by the way, as an aside, do the American airports have the best technology available in the world for IFR service?

Mr. ENGEN. I think, Senator Lautenberg, that the United States is the leader in civil aviation. I just spent last week with Mr. John Dent, the Chairman of the CAA in England, and we shared views together. I looked at his airports, I went to Gatwick. Our systems are very similar. They have a polished system over there, and it is good, but I would say that I really truly believe that the United States is the preeminent civil aviation nation. The procedures that we have are indeed the best in the world. We are looked up to as a model.

Senator LAUTENBERG. The French airports, have you studied Charles de Gaule and some of the airports there where they land virtually with ceiling zero, where the aircraft and the equipment on the ground take care of the entire process of landing?

Mr. ENGEN. We have that same capability, sir, throughout our system. Let me qualify that. We have well over 3,000 airports, of which 350 are commercial airports. About the top 22 account for about 75 percent of all of our traveling public.

The major airports in the United States have that capability. We have the capability for autoland at many major airports, and I stress major airports.

Senator LAUTENBERG. I thank the Chair for his indulgence again, and I would urge that we not be so harsh in terms of trying to solve our problems, and offer some forgiveness, if it is called for, in the interest of our traveling public.

Senator ANDREWS. The Senator raises an important point.

BALANCING COST WITH MORALE

Mr. ENGEN. May I respond to that, Mr. Chairman.

Senator ANDREWS. Sure, go ahead.

Mr. ENGEN. Thank you, Mr. Chairman.

If I might, it might be helpful, Senator Lautenberg. First of all, I am a manager and I have run things all my life. You have to balance cost with morale, and the morale that I spoke of is a very real concern on the part of those people out there.

Senator LAUTENBERG. Sure.

Mr. ENGEN. There is an additional thing that is hidden and doesn't always show up.

If I were to bring back controllers today who had been laid off for 3 years, it would take 6 to 9 months before those people would be back up to speed where they could be used. So there is a delay factor there as well, but primarily it is one of morale. I just wanted to make that point.

Senator LAUTENBERG. We will have a debate about this sometime. I chaired one of America's most successful companies, and modestly I say that, and the morale was always kept high when we were functioning as a team, we were productive, everybody shared in the glory of the other guy's achievements.

I think that when we are talking about something as essential to our society as air travel service. I think America was built on the speed of communication and the speed of transportation.

Mr. ENGEN. I agree.

Senator LAUTENBERG. I think that case could be sold, and you are certainly the person to do it.

Senator ANDREWS. Mr. Administrator, finally, because we have to take this bill to the floor and get the support of 100 colleagues, we need some information. Senator Lautenberg has brought up an important point, and you responded to it partially.

Could you provide for our record the amount of money it would cost to retrain these controllers now laid off for 3 years.

[The information follows:]

The retraining cost would be approximately $20,000 per controller. This figure only includes direct training costs. It excludes training support costs and all the nontraining expenses that would be incurred in rehiring these controllers. Excluded are hiring costs, the cost of leave and other unproductive time during the training period, the differential retirement cost for rehired controllers as opposed to new hires, the costs associated with training failures, et cetera. Also excluded is the substantial cost which would be incurred in recruiting and training replacements for the estimated 1,000 to 1,800 retirement eligible controllers who would likely leave the system if a rehiring of the terminated controllers took place.

Senator ANDREWS. You say that we have 2,500 rather senior controllers who are now eligible for retirement, would you provide any estimate you have of how many of those might take retirement rather than go through what you identified earlier as the pressure of serving with the people who disagreed so violently with them some 3 years before?

Mr. ENGEN. I will try to provide that.

[The information follows:]

We believe that the number would range somewhere between 1,000 and 1,800 employees.

Senator ANDREWS. Those are pieces of information that could be most helpful if this matter comes up in discussion of the bill, and any other points that you might have regarding that situation.

Mr. ENGEN. I will do that.

SUBMITTED QUESTIONS

Senator ANDREWS. Thank you very much, Mr. Administrator. We have further questions we will submit to you to be answered for the record.

[The following questions were not asked at the hearing, but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

AVIATION SYSTEM DELAYS

CAUSES

SENATOR ANDREWS: What percentage of delays are air traffic control system related?
ANSWER: 20% of delays were attributed to the air traffic control system during CY 1983. 14% of delays were attributed to the air traffic control system from January through August 1984.

AIR CARRIER/AIR TRAFFIC THINK TANK

SENATOR ANDREWS: In July, a group of industry and Government representatives sat down to review the national air transportation system. This "Think Tank" approach resulted in dozens of near- and long-term recommendations. What were the most valuable recommendations, in your opinion?
ANSWER: Because of the urgency of the delay situation, we are concentrating our resources on those recommendations that can be done in the short term and that have a high degree of return. Implementation of these recommendations will provide immediate relief so that we can then focus our attention on all remaining suggestions. Each recommendation will be evaluated on its own merit and implemented if there is a benefit to the users of the air traffic system.

SENATOR ANDREWS: What is FAA doing to change its procedures to implement these recommendations?

Specifically will FAA

-- reduce IFR approach weather minimums?

-- adjust criteria for using intersecting runways?

-- adjust separation standards for arrivals?

ANSWER: At the present time, the Office of Flight Operations and the Air Traffic Service are investigating the feasibility of reducing separations at intersecting runway locations. Procedures will be developed based on discussions between the two services whereby an action plan will be developed.

SENATOR ANDREWS: Why initiate these recommendations when the Administrator stated that "even if we (FAA) made all the procedural changes suggested, it would not make all that great a difference in increasing capacity"?
ANSWER: The FAA would prefer to take the positive approach to solving delay problems by seeking ways to improve the air traffic system and increase capacity to whatever is possible. Those recommendations which will provide capacity increases, even if they are minimal in nature, will be adopted. For example, if it were possible to reduce arrival separation from 3 miles to 2 miles and it resulted in increasing capacity at that airport by 2 aircraft per hour - it would be helpful in dealing with the capacity problem.

SENATOR ANDREWS: The OTA report, for example, suggests that technological improvements could increase capacity at some airports by as much as 30 percent, and on average 5-10 percent. These improvements are not insignificant. How do you respond?

ANSWER: There are a number of technological improvements which can yield substantial improvements in airport capacity. The OTA report's figure of 30% relates only to certain airports during adverse weather conditions. This level of capacity, as stated in the OTA report, is highly site specific, depending on airspace geometry, runway layout, traffic mix, and the prevalence of weather conditions that restrict visibility. We consider OTA's estimate of system wide benefits in the range of 5 to 10 percent to be reasonable.

We are presently investigating the capacity gains that may be realized through developing the technological capability to conduct simultaneous instrument approaches on converging runways, closely spaced parallel runways, and triple parallel runways.

SENATOR ANDREWS: When will the think tank reconvene? Have "local think tanks" been set up for the busiest areas?

ANSWER: FAA is moving ahead with evaluation and implementation of the think tank's recommendations. Once these changes have had a chance to take effect, we would expect to reconvene the think tank to monitor the progress of our efforts to reduce delays and to make suggestions for further improvements based on the users' experience with the system. Local think tanks are expected to be convened at the busiest areas to address issues of a more localized nature.

SENATOR ANDREWS: The Think Tank included military aviation representation. To what extent are military flights contributing to delays?

ANSWER: 63% of all system delays reported have been at or destined for six major airports. Military air traffic at these airports is minimal.

	CY 1983	Jan-Aug 1981
Atlanta	.4%	.2%
O'Hare	.6%	.6%
Newark	.2%	.1%
Kennedy	.2%	.2%
LaGuardia	.2%	.1%
Denver	.3%	.3%
En Route ATC Service	15%	16%

ANTI-TRUST IMMUNITY AND SCHEDULING MEETINGS

SENATOR ANDREWS: Last week, the Civil Aeronautics Board (CAB) granted limited anti-trust immunity for 45 days to enable carriers to meet and discuss schedule changes at the six busiest airports. What occurred at the meetings?

ANSWER:The meeting between airlines, FAA, and other concerned parties to reduce airport delays was convened September 5, 1984. Airline schedule adjustments were agreed to for LaGuardia, Kennedy, Newark, O'Hare, Atlanta, and Denver Airports to smooth out total demand. The airlines will now submit a copy of the revised schedules to the CAB for approval.

SENATOR ANDREWS: How might these meetings fare better than the current scheduling committees?
ANSWER: Scheduling committees do not exist for Atlanta, Denver, and Newark. Although they exist for the other airports, they do not focus on the issues critical to this exercise (difference between departures and arrivals and need to set operations by 15-minute increments). In addition, the purpose of this effort was not to allocate operations but to redistribute them. At the "Reduction of Airport Delay" meetings, the FAA had significant input and did in fact, provide specific direction as to when and where problem areas existed. Cooperation among the airlines was very good. Additionally, this is an opportunity for the airlines to actively assist in resolving problems as opposed to merely doling out a quota set by the FAA.

SENATOR ANDREWS: Will schedule changes be made by the target date (end of October for publication of Official Airline Guide)?
ANSWER: Schedule changes agreed upon at the demand management meetings will be effective November 1, 1984 (in some cases it will be October 28, 1984). This should be enough time to have the new schedules published in the Official Airline Guide. This, of course, assumes prompt CAB action.

SENATOR ANDREWS: Once shifts are decided, how will they be processed with the CAB?
ANSWER: The CAB order granting anti-trust immunity for the discussions among carriers concerning scheduling changes specifically required that any agreement reached must be submitted to the Board for approval, and must be approved prior to implementation. Accordingly, the agreement reached as a result of the scheduling meetings will be submitted to the Board for its approval and will be published by the Board for comment prior to final approval.

SENATOR ANDREWS: Will FAA promulgate a rulemaking to "lock-in" these schedule shifts?
ANSWER: FAA will have to devise some means of enforcing the schedule shifts to ensure that carriers comply with the new schedules agreed to at the meetings. The think tank FAA convened to study the delay problem recommended that the FAA take rulemaking action to implement the actions taken at the scheduling meetings, and this is a likely outcome.

SENATOR ANDREWS: To what extent are international carriers participating in these meetings?
ANSWER: International carriers including Air Canada, Air India, British Airways, and U.S. flag carriers with international operations were in attendance at the meetings. British Airways was very helpful in suggesting procedures for the meetings as they evolved. The international carriers were primarily concerned with operations at Kennedy and O'Hare since they do not normally operate at all six airports.

NOTICE OF PROPOSED RULEMAKING AT SIX AIRPORTS

SENATOR ANDREWS: In August, the Department of Transportation published its Notice of Proposed Rulemaking (NPRM) to address limiting general aviation and commercial flights at the six busiest airports. Now that the comment period has closed, what is the next step on this rulemaking?

ANSWER: The next step is to await approval of the CAB of the agreement reached by the carriers. The FAA has consistently stated that we would prefer for the carriers to work these problems out among themselves, rather than for the FAA to have to impose a solution by regulation.

The FAA will implement a rule which will prohibit all operators from changing or adding to the scheduled times of arrivals and departures from those schedules approved by the CAB, as well as a rule prohibiting violation of the carrier agreements.

SENATOR ANDREWS: To what extent will rulemaking be held in abeyance until the scheduling meetings take place? If the scheduling meetings are not successful, is the Department committed to implementing the rule?

ANSWER: As previously noted, the carriers have reached agreement on the necessary scheduling changes.

AIR CARRIER SCHEDULES

SENATOR ANDREWS: How far in advance do carriers file flight plans?

ANSWER: Air carrier flight plans are normally included in individual en route center "stored" flight plans which are received at least one week in advance. If flight plans are not included in the center "stored" program, flight plans are required to be filed prior to departure and are requested to be filed at least 30 minutes prior to departure. The Official Airline Guide (OAG) schedule is received 30 days before the schedule is implemented, however the OAG does not indicate the route of flight that will be flown between city pairs.

SENATOR ANDREWS: What improvements in these requirements and procedures are necessary.

ANSWER: To effectively forecast en route and terminal demand, flight plan information should be received for all flights a minimum of 2 hours, and preferably 4 hours, in advance of departure. This lead time would enable the FAA to identify future high demand areas and institute required flow control programs.

SENATOR ANDREWS: To what extent do air carriers deviate from their published flight schedules?

ANSWER: The FAA has no information concerning the extent to which air carriers deviate from their published flight schedules. We do keep track of delays caused by weather, FAA equipment outages, traffic, management programs, and volume.

SENATOR ANDREWS: The FAA Administrator told the airlines recently that informing FAA of long-term schedules may help match demand to capacity. Are carriers likely to release such sensitive information? Unless FAA dictates schedule limitations to airlines, of what value would this information be?

ANSWER: When sufficient advanced notice of major scheduling increases is transmitted to ATC, the FAA can effectively forecast required operational/procedural revisions and meet increased traffic demands without unnecessary delays. Some airlines have given ATC advanced scheduled plans. At six major airports FAA/industry representatives are meeting and discussing schedule changes. Industry has been cooperative.

SENATOR ANDREWS: In your opinion do air carriers adequately inform departing passengers of the actual extent of delays? Isn't it true that the screens we all see before checking in for a flight reflect only the schedule, rather than actual delay circumstances? What could the carriers or the FAA do to better inform the flying public, even if it means passengers may shift flights once informed of carrier delays?

ANSWER: The FAA has no basis to determine whether airlines provide adequate information to departing passengers of delays to aircraft which affect gate departure times. It is correct that the screens we all see when checking in for a flight reflect the scheduled departure times.

The FAA provides overall air traffic control system delay information to the airlines. For the most part, ATC system delays are given to passengers by each airline through various methods (i.e., TV screen, public address systems, etc.).

HUB-AND-SPOKE

SENATOR ANDREWS: One outgrowth of airline deregulation has been carriers' developing hub centers in their system networks. This has let to considerable traffic increases at Denver's Stapleton, Atlanta, as well as at other airports. What are the specific impacts of airline hubbing for the overall airspace system, controller workload and delays for the flying public?

ANSWER: Airline hubbing has impacted the air traffic system in several ways. Increased traffic congestion within 300 miles of the hubbing airport may occur because of the large numbers of aircraft that converge on a single arrival course from many different directions in a compacted time frame. This congestion increases the volume and complexity which, in turn, causes increased controller work load. In turn, a national traffic management program must be implemented to reduce this work load, this in turn spawns delays because aircraft destined for this particular hub are held on the ground at the departure airport. The concentration of operations within short time frames is the problem. In many cases, the hub and spoke concept is not a serious problem. In some cases, problems are created by multiple hubbing and spoking. We recognize that it is an integral part of industry and we will adjust to the extent possible.

SENATOR ANDREWS: A Wall Street Journal (8/27) report about carriers' efforts to increase market shares at Chicago's O'Hare proves the point that "hubbing begets more hubbing". Missing from the article, though, are projections of load factors which are realistic given such market concentration. Will these competing carriers just try to "out-hub" each other? Will their planes be filled? And, as the airport executives have testified, will connecting traffic crowd out those travelers from small and medium communities whose destination is Chicago?

ANSWER: In a deregulated environment, airlines can be expected to function like any other business. They will produce the quantity and type of services which their customers are willing to pay for. There is no reason to believe that airlines will produce unwanted levels of service in certain markets while failing to serve others.

AIRPORTS

SENATOR ANDREWS: You have stated on a number of occasions that more airports and runways are needed to serve public air transportation demand. Is this emphasis on airport facilities intended to suggest that you consider this a larger problem than the heavily used enroute airspace?

ANSWER: We believe that, while both airport facilities and en route airspace form part of the overall capacity problem, in the long-term airport facilities inadequate to met system demand will most adversely impact system capacity.

SENATOR ANDREWS: Is enough being done to maximize runway and terminal utilization? What should airport managers and/or the Federal Government do to:

- increase short take off and landing (STOL) runways
- more accurately access airport capacity, either to set limits when saturated or to better target improvement funds?

ANSWER: A tremendous amount has already been done to maximize the efficiency of airport facilities and we expect additional gains in the future. Some of the most effective measures have been developing reliever airports, increasing the number of passengers per aircraft operation through the use of larger aircraft, and flattening peaks in aircraft operations at congested airports. These are ongoing efforts and, while much has been accomplished, much remains to be done. The FAA has given appropriate support to efforts to improve airport efficiency. The planning and development of short runways are eligible for Federal aid under the Airport Improvement Program and the FAA has sponsored research into the concept, which is now being demonstrated at Washington National Airport. The FAA has also developed methods to analyze airport capacity and predict delays and fuel consumption under various operating conditions. Airport managers face the challenging task of analyzing the requirements of their particular airports, assessing the opportunities to satisfy them, and initiating an acceptable development program along with appropriate non-construction measures. Considering the political and environmental factors that are involved, airport management is doing a remarkable job of keeping up with growth in aviation.

SENATOR ANDREWS: Provide for the record the 15 airports pinpointed by FAA where future congestion is forecast to be critical. Which of these airports will add runways? What 5-year funding decisions have been made for these airports to reduce congestion?

ANSWER: The airports where congestion is forecast to be critical are in Atlanta, Boston, Chicago O'Hare, Denver, Houston Hobby, Houston Intercontinental, JFK International, LaGuardia, Newark, Phoenix, Los Angeles, San Francisco, Washington National, Dallas/Ft. Worth, and St. Louis. Runways are being built in Atlanta and Dallas/Ft. Worth, planned for Houston Interncontinental, and under consideration in Denver. All fifteen airports have master plans, either approved or under preparation, which include detailed investment programs to accommodate growth. The development usually occurs in stages as warranted by growth in traffic, with appropriate financial assistance under the Airport Improvement Program.

SENATOR ANDREWS: How can the Airport Improvement Program (AIP) be made more responsive to the currently saturated airports? What planning is necessary to target funds to alleviate future congestion.

ANSWER: Within the grant program, high priority is given for projects which have direct capacity-generating potential at major airports. Currently saturated airports and airports forecast to have capacity problems are identified for special consideration in FAA's annual grant program guidelines to its airport field offices. The field offices work closely with airport sponsors of currently saturated airports to assure that AIP funds are being used, to the extent practicable, to alleviate capacity problems. In addition, sponsors at locations anticipated to have capacity problems through the 1990's are also encouraged to accomplish needed development with AIP funds.

In addition to work at saturated airports, we have emphasized the development of reliever airports. At least 10 percent of the annual funding level as required in the AIP authorizing legislation, must be obligated at reliever airports. We have exceeded this minimum each year. The funds have gone toward building new relievers (e.g., Front Range in Denver), acquiring private airports (Palwaukee) and adding capacity at existing airports. We believe this has significantly contributed to the increase in overall aviation capability in metropolitan areas.

Controllers

SENATOR ANDREWS: What could FAA do to shift controllers workload from the busiest towers to less busy sectors personnel?

ANSWER: During high traffic demand periods, workload is equally distributed between en route centers and airport terminal facilities. En route controllers provide required spacing so that terminals controllers will be able to effectively provide arrival spacing from various arrival fixes to the landing runway; as a matter of practice, terminal facilities and en route sectors currently "pass back" traffic restrictions to adjoining facilities in order to insure that no one area becomes overloaded beyond acceptable traffic limits.

SENATOR ANDREWS: What incentives are in place to keep controllers at the busiest centers such as New York and Chicago.

ANSWER: There are no incentives in place to keep controllers at specific locations. To date there has not been a problem keeping qualified controllers at the busiest facilities. The busiest facilities already have the highest salaries thus except for normal retirements there is very little movement from these facilities.

SENATOR ANDREWS: How did the one and two year controller details and reassignments improve workload management? What is FAA's "special placement program" for critically staffed facilities?

ANSWER: The use of these controllers permitted New York, Chicago, Indianapolis and Minneapolis air route traffic control centers to increase capacity much sooner. These employees were certified in 60 to 90 days after reassignment. Controllers selected under these two special placement programs have filled their contractual committments and have excised or are excercising their return or reassignment options at this time.

The FAA does not have a special placement program for critically staffed facilities at this time. However, FAA is continually monitoring the situation and would implement such a program if it would be beneficial.

SENATOR ANDREWS: What is being done to step up controller training at the academy?

ANSWER: The academy is gearing up to transition to a double shift operation in order to step up training and meet the increased demands of initial hirees for FY 1985. Beginning on December 5, 1984, the academy will go to a two-shift operation in academic training and will go to a two-shift operation on January 5, 1985, in laboratory training.

SENATOR ANDREWS: What has the FAA done to reduce the washout rate at the training center, or to increase initial enrollments to meet actual washout rates?

ANSWER: There are a number of steps we have taken:

1) A new controller examination was instituted after the strike.

2) Input to the Academy is based on expected washout rates.

3) FAA hiring takes into consideration all attrition rates which include academy and field washout rates.

SENATOR ANDREWS: In what specific ways is FAA recruiting graduates of the nation's Airway Science Programs? How many have been hired, and what is projected for the next five years? To what extent does FAA "credit" Airway Science graduates for their studies, so as to speed their entry into the system?

ANSWER: The Office of Personnel Management (OPM) issues a formal announcement soliciting applicants for the Airway Science Program semi-annually. The next open period will be October 1-31, 1984. Copies of the announcement are mailed to all schools with recognized Airway Science curriculum as well as schools who have submitted curriculum for recognition. Announcements are posted in all OPM Federal Job Information Centers nationwide. Each FAA employing jurisdiction receives announcements for regional distribution. Various recognized schools have sponsored activities to acquaint students with FAA career options. For example, Southern Illinois University is bringing 24 students, by bus, to the FAA Aeronautical Center next week to tour the FAA Academy and receive a briefing on the application process and examining procedure. Each recognized school has been provided a supply of brochures for their student population describing the Airway Science Program as well as a videotape for their use in outreach recruiting activities. Through the agency's network of Aviation Education Coordinators, high school counselors are made aware of this program to acquaint high school graduates with Airway Science as a major field of study. On October 9 and 10, FAA is participating with 19 other companies in a satellite broadcast to 31 colleges and universities describing the Airway Science Program and copies of the announcement will be given to all students present. Potentially, 9000 graduating students will attend the broadcast.

To date eight Airway Science applicants have entered on duty and in excess of 55 have been referred to FAA employing jurisdictions for consideration. The FAA goal is to hire up to 500 Airway Science trained individuals a year (10-15% of total FAA hires and 20-30% in target occupations of air traffic controller, electronic technician, aviation safety inspector, and computer science). As more and more individuals obtain Airway Science related qualfications, the number accessible for recruitment will also increase. At this early stage, an estimate of the number of individuals to be hired by occupation from 1984 to 1988 may be 1,350 air traffic controllers, 463 electronic technicians, 70 aviation safety inspectors, and 19 computer specialists.

The Airway Science Demonstration Project approved by OPM and Congress, granted the FAA waivers to laws and regulations contained in 5 CFR 300.103(a) and (b) whereby, the completion of the Airway Science curriculum can be substituted for general and specialized experience now required by published qualification standards in the targeted occupations. The demonstration project is designed to employ Airway Science trained individuals in GS-7 entry level positions in the FAA. The portion of the qualification standards for each occupation relating to general and specialized experience and substitution of education for experience has been modified so that a candidate for employment with a bachelor's degree conforming to the Airway Science curriculum or one who can demonstrate substantially equivalent skills, knowledges, abilities, and other characteristics would meet the general and specialized experience requirements to qualify for the GS-7 level.

CONTROLLER RETIREMENT

SENATOR ANDREWS: Has FAA explored "double dipping" for recently retired controllers to work part time to handle peak periods? Should Congress enact such a provision?

ANSWER: We do not recommend any further changes at this time to the law governing reemployed annuitants. We believe that the recent action to extend for one year the exemption for controllers who retired before the illegal controller strike represents an adequate measure concerning reemployed annuitants. FAA is also taking a number of actions to retain its existing controller workforce.

SENATOR ANDREWS: When do you believe users of the Air Traffic Control System will begin to see benefits from the National Airspace System Modernization Plan? What capacity increase do you think can realistically be expected as a result of airspace modernization?

ANSWER: Users of the Air Traffic Control System are already seeing some benefits from the National Airspace System Modernization Plan.

. The changeout of the VORTAC System is essentially complete, resulting in a higher degree of reliability and reduced maintenance requirements than were possible with the earlier systems.

. Improvements have been made to the ARTCC Central Computer Complexes which have reduced the number of unexpected outages.

. 82 Satellite Towers have been equipped with radar displays with some improvement in capacity through reduced weather minimums.

. 78 Radar Remote Weather Display Systems have been installed at 21 ARTCC's for improved identification and tracking of hazardous weather conditions.

. Low Level Wind Shear Alert Systems have been installed at 59 airports with attendant safety improvements.

. The Air/Ground Communications Equipment Replacement is nearly complete, with significant reliability improvements.

Other projects which are nearing the implementation stage are:

. Flight Data Input-Output (FDIO) equipment which will replace the existing Flight Data Entry and Printout (FDEP) and En Route Flight Strip Printer (FSP) systems and establish FDIO at additional airport locations. Will be implemented beginning early FY 1985.

. Automated Weather Observing System (AWOS) equipment will be implemented beginning late FY 1986.

. The Category III Runway Visual Range (RVR) equipment will be implemented beginning late FY 1986.

. Airport Surveillance Radar (ASR-9) will be delivered commencing mid 1986.

. Delivery of the first article Next Generation Weather Radar (NEXRAD) is scheduled for early FY 1986.

. Delivery of the First Replacement Radar Microwave Link (RML) equipment is scheduled for mid FY 1985.

. The Direct Access Radar Channel (DARC) Enhancements are being implemented, with completion planned for mid FY 1985.

. The upgrade of the Traffic Management System is now in progress, with completion planned for early FY 1987.

. The Host Computer Replacement at the en route centers will be implemented, starting early FY 1987.

. The ARTS-III Enhanced Terminal Conflict Alert function will be implemented, starting mid 1985.

. The Flight Service Automation System (FSAS) Model I will be implemented mid FY 1985.

. The first Microwave Landing System (MLS) will be commissioned early FY 1986.

The Airspace Modernization, when completed, will reduce delays incurred by unexpected weather conditions and by application of reduced separation standards. The latter will noticeably improve the capacity of the En Route System and the terminal approach control areas. We are currently conducting a study of the total user benefits which can be realized by the NAS Plan projects. Part of that study, being conducted by the System Engineering and Integration Contractor, Martin Marietta, is to attempt to quantify the system capacity benefits in terms of delay reductions and user cost impacts. The study is expected to be completed by June 1985.

FAA FLOW CONTROL

SENATOR ANDREWS: Will centralized flow control management decrease the responsiveness of the air traffic control system?

ANSWER: No. Centralized flow control management will increase the responsiveness of the ATC system at the field facility level. The greatest benefit will be the ability to direct problem resolution. When repetitive air traffic problems are observed, facilities can be assisted by the Central Flow Control Facility to take appropriate corrective action.

SENATOR ANDREWS: Flow control staff know how many arrivals and departures are scheduled for each of the major airports. Does FAA have the current capability to monitor all planes in the system -- not just at terminal points, but en route -- in order to manage flow control systemwide? Is the so-called "ELOD" (En Route Sector Monitoring System) operational at central flow control now? (expected Sept. 1)

ANSWER: FAA does not yet have the capability to monitor all aircraft in the system from the Central Flow Control Facility. This will occur sometime in late 1984 when all Centers are operational on the A3D2.14 computer tape. When this occurs, Central Flow Control will review flight plan data. ELOD is presently in operational testing and has encountered some program problems which have delayed commissioning. The first operational version of ELOD will initially function with scheduled flight plan data rather than dynamic flight plan data. Barring unforeseen problems ELOD will be commissioned in late September.

SENATOR ANDREWS: To what extent is data on general aviation activity part of the current or projected flow control system?

ANSWER: General Aviation (GA) activity is factored into all national flow control programs when ground delays are assigned. GA is derived from historic data on an hourly basis. Historic data is used because ground delay programs are usually activated several hours prior to the problem period and the true GA factor is not known. When the ELOD (En Route Sector Loading) program is commissioned, dynamic data on departure aircraft will be sent to Central Flow Control and the scheduled static data can then be updated.

SENATOR ANDREWS: The current percentage of ground delays is 90 percent, as compared to prestrike when 50 percent of delays were on the ground and 50 percent airborne. What should be done to increase airborne holding?

ANSWER: There will be a continuing mixture of ground and airborne delays in the air traffic control system. The majority of the airborne holding will generally be related primarily to weather and unusual system occurrences. Ground delays will continue to be used where needed to absorb known delays, if necessary to avoid excessive system loading.

SEPARATION STANDARDS

SENATOR ANDREWS: What changes in aircraft separation standards should/will the FAA initiate in response to delays (vertical and in-trail)?

ANSWER: A suggested reduction of longitudinal separation from 3 nautical miles to 2.5 nautical miles on the final approach course within 15 nautical miles of a radar antenna has been proposed by an "Industry Task Force." A primary factor to be used toward the decision to go ahead with an evaluation/confirmation of such a reduction is the average runway occupancy time of 50 seconds or less per aircraft. An analysis of measurements taken recently at three airports will be published by the MITRE Corporation in September 1984. Estimated completion of an evaluation/confirmation period for the proposed reduction is fall of 1985.

Action is currently being taken to develop the minimum system performance standards necessary to safely reduce vertical separation from 2000 feet to 1000 feet above flight level 290.

SENATOR ANDREWS: Are future reductions in separation standards linked to technology improvements? If so, when will these improvements be made?

ANSWER: The plans to reduce separation standards are not based on technology improvements.

SENATOR ANDREWS: How are the safety ramifications of separation standard changes measured?

ANSWER: Statistical methodology (Collision Risk Modeling) based upon quantitative analysis is being used to assess whether a reduced vertical separation standard will meet an acceptable level of safety.

SENATOR ANDREWS: If runway utilization is to be increased, as suggested in the "Think Tank" document, what runway surface improvements will be undertaken, and at what cost? What will be done about adverse (slippery, wet) runway conditions?

ANSWER: FAA places strong emphasis on the need for surface treatment of runways to maintain acceptable traction characteristics. For instance, FAA's Airport Improvement Program gives high priority to grooving of all primary and secondary runways with emphasis on runways serving turbojets. As a result, most ILS runways serving commercial turbojet operations have already been grooved. The Program also supports and funds porous friction courses and aggregate seal coats to restore runway traction properties. The cost of grooving is about $300,000 per runway. To prevent adverse (slippery, wet) conditions, runways are inspected by FAA under our Certification Program and airport operators are required to assure runways are kept free of contaminants.

SENATOR ANDREWS: FAA's "Quality Assurance" Program has created controversy within the controller workforce; some have referred to the "Snitch Machine." You have stated that this computer monitoring has caused morale problems due to lack of controller understanding of its intended purpose. What actions had FAA taken to alleviate these morale problems and are these actions adequate in your view?

ANSWER: The FAA has taken a number of actions to alleviate controller concerns about the Automated Error Detection Program. In March 1984, the FAA modified its Facility Management Handbook to place more emphasis on positive approaches to improved performance and less emphasis on disciplinary action in relation to operational errors. In May 1984, the FAA reduced some of the actions normally taken in regard to a controller involved in an operational error during the initial investigation. For example, an employee involved in an operational error classified as "Minor", is no longer removed from his position pending investigation of the incident. This action was initiated to minimize any potential for employee embarrassment and yet maintain necessary safety safeguards. Other similar adjustments, are under consideration. We are actively working to address employee and pilot perception of the program. It is an important safety tool.

SENATOR ANDREWS: Have there been other unintended side effects of the Quality Assurance Program, such as artificially increased separation of aircraft? If so, what is FAA doing to deal with these side effects.

ANSWER: There have been a number of side effects of the Quality Assurance Automated Error Detection Program; however, artificially increased separation has not been one of them. The program was intended to reduce operational errors thereby increasing safety. Some controllers have slightly increased the separation they apply between aircraft. This, in fact, has resulted in fewer errors which was the object of the program. These slight increases occasionally applied between two aircraft have no discernible effect on traffic movement or delays.

The implementation of the new software and the improved analysis being applied to operational errors has led to a better understanding of the causes of errors and permitted us to concentrate our efforts on specific causes. The success of this analysis and concentration of effort becomes clear when the reduction of errors between the time of the program's first implementation in each facility and the present time is reviewed.

GENERAL AVIATION

SENATOR ANDREWS: To what extent does general aviation use air traffic control at the "busy six" airports? To what extent does general aviation use ATC services overall (en-route)? How does this compare to regularly scheduled carriers?

ANSWER:

	General Aviation		Air Carrier	
	CY 1983	Jan-Aug 1984	CY 1983	Jan-Aug 1984
Atlanta	6%	6%	81&	80%
O'Hare	7%	6%	76%	84%
Newark	15%	11%	67%	68%
Kennedy	10%	8%	59%	59%

	General Aviation		Air Carrier	
	CY 1983	Jan-Aug 1984	CY 1983	Jan-Aug 1984
LaGuardia	11%	10%	63%	67%
Denver	16%	12%	68%	70%
EnRoute ATC Svc	27%	29%	45%	42%

NOTE: Information reference, FAA Air Traffic Activity CY 1983 and National Airspace Performance Reporting System.

SENATOR ANDREWS: How far in advance are general aviation flight plans required to be filed? Are they integrated in the flow control system with air carrier schedules? To what extent do general aviation flight plans need to be more geographically specific?

ANSWER: General aviation flight plans are currently required to be filed prior to departure and it is recommended that they be filed at least 30 minutes prior to departure. This time frame does not allow for the integration of general aviation into national flow control programs on a dynamic basis. However, an estimate of the number of general aviation aircraft is used in national flow control programs. This estimate is based on historical data.

SENATOR ANDREWS: Why not shift general aviation traffic to reliever airports?

ANSWER: The present system is based upon first come first served. In some locations general aviation user groups have indicated a willingness to utilize reliever facilities and avoid high density airports during busy hours, provided adequate airport navigation, ground facilities, and ATC procedures are available.

SENATOR ANDREWS: Should fees or restrictions be applied to general aviation traffic at the busiest airports?

ANSWER: Restrictions currently apply to general aviation traffic at several of the busiest airports as well as to other classes of users. They are needed to insure a fair and equitable allocation of capacity among all users.

SENATOR ANDREWS: To what extent will advisories about peaking at the busiest airports such as NBAA's "FASST" (Fly Around Saturated Sectors and Terminals) help solve the problem? Will pilots change schedules once they know when and where delay problems are most severe? How will FAA police this voluntary program?

ANSWER: During the recovery of the ATC system, general aviation users employed many innovative flight planning techniques to avoid ATC facilities where flight was restricted. We believe, if given adequate information about areas of congestion, they can again help resolve the congestion problem. En route sector loading data will be used to verify the effectiveness of the program.

SENATOR ANDREWS: How does FAA plan to cooperate on implementation of "FASST"?

ANSWER: A meeting between the FAA and general aviation user groups is scheduled for October 3. At this meeting the information concerning peak hours at the identified six major airports and congested en route high altitude sectors will be provided to user organizations. These sectors will be published on appropriate charts and Airman Information Manuals, and general aviation interests have indicated a desire to give this information widespread dissemination.

BUY/SELL

SENATOR ANDREWS: Earlier this year FAA came out with a proposed rulemaking to allow carriers at four airports to buy and sell landing slots. Now that the comments are in, what is the overall sentiment? What is the timing on implementing buy/sell?

ANSWER: Because of the many difficult questions which must be addressed concerning the proposal, and the wide variety and complexity of comments submitted by interested parties, examination of the comments in the docket for this rulemaking must be carried out very carefully, to ensure that all views are considered. Therefore, we do not expect that the agency would be prepared to propose final action on the issue in the short term.

SENATOR ANDREWS: What impact will this proposal, if initiated, have on delays at the four affected airports (National, O'Hare, LaGuardia, and JFK)? Is it likely that carriers will shift flights to less-costly, off-peak times, or shift to less-crowded airports?

ANSWER: The buy/sell proposal most likely would have no impact on delays at the affected airports as long as the number of slots remained unchanged. The buy/sell proposal, in itself, would not affect the total number of slots available, but rather would permit their transfer among airlines by a market mechanism.

SENATOR ANDREWS: What system-wide impact might "buy/sell" have on medium-to-small carriers without resources to bid for slots, and by extension, the cities they serve?

ANSWER: The overall impact of the buy/sell proposal on carriers of different size is difficult to predict. There are many in the industry who believe this will be a problem. The proposal would provide opportunity for new entry or growth of some carriers; it could inhibit operations of other carriers. If adopted, market forces would ultimately determine the impact on individual carriers and cities served by the air carrier industry.

SENATOR ANDREWS: Some have expressed concern that such a proposal would result in carriers' favoring those markets, where such an investment has been made in slots, to the detriment of smaller communities. To what extent might the buy/sell concept concentrate markets even further?

ANSWER: In a deregulated environment, airlines make decisions in response to market forces. Hence, while market forces will determine concentration in particular markets, it is unlikely that the buy/sell proposal will have a systematic impact on service provided to smaller communities.

MICROWAVE LANDING SYSTEM

SENATOR ANDREWS: One of the think tank recommendations was to accelerate implementation of Microwave Landing System (MLS). Will you award the second MLS contract in FY-1986, one year early? What about increasing to 150 units yearly, rather than 100? What will these decisions mean in terms of delays?

ANSWER: A study is currently underway to determine the feasibility of accelerating the implementation of MLS. This study includes the feasibility of speeding up MLS deliveries.

MLS's curved approach capability has the potential for increasing capacity of airspace around major airports, thereby reducing delays.

SENATOR ANDREWS: What improvements are realistic in the area of weather prediction?

ANSWER: A number of technological developments for detecting and tracking severe weather, integrating and displaying the data, and for disseminating weather forecasts and warnings are certainly achievable in the foreseeable future (5 to 7 years). The Next Generation Doppler Weather Radar (NEXRAD), the Geostationary Operational Environmental Satellite System, Automated Weather Observation Systems, aircraft equipped with automatic sensors for winds and temperatures, and ground-based microwave profiler systems combined with satellite-based atmospheric sounding systems will markedly improve the capacity to observe small-scale weather phenomena and circulation patterns. This greatly improved granularity of weather data can dramatically improve our ability to provide accurate, short-term predictions of severe weather, for both aviation and general public use.

More frequent sampling of the upper atmosphere through aircraft/satellite data relay systems, satellite sounders, and ground-based profiler systems and the almost doubling of the number of surface observations through automation will provide the needed input to improved, high-speed computer models which, in turn, will produce more detailed, accurate and timely short-term (0-4 hour) forecasts. The decreasing costs of automated data processing coupled with high-capacity, high-speed processing systems will make it possible for the meteorologist to assimilate greater amounts of weather information and facilitate time critical forecast decisions.

SENATOR ANDREWS: How will implementation of "Mode-S" (Improved Transponders) improve the System?

ANSWER: Mose-S is expected to provide a variety of valuable support functions to air traffic control and the National Airspace System while using the same interrogation and reply frequencies as the existing radar beacon systems.

A principal feature of the Mode-S system is that each aircraft is assigned a unique address code. Using this unique address code interrogations can be directed to a particular aircraft and replies can be identified without ambiguity. By proper timing of interrogations, replies from closely spaced aircraft can be received without mutual interference.

Also, Mode-S will:

- help accommodate future demands with increased efficiency,
- support automated functions of the NAS,
- provide dynamic advisory and flight safety information to the pilot and
- enhance ATC services while helping to increase controller productivity and thus lead to more efficient movement of traffic.

LONG TERM

SENATOR ANDREWS: One of the "think tank's" long-term recommendations (p. 2.51) involved the development of long-range plans, including a merger of NASA and FAA into a Department of Aerospace. What might be the benefits of such a step?

ANSWER: The missions of FAA and NASA are fundamentally different, fundamental research and air safety, respectively. Any merger of these two agencies might have the impact of diverting FAA's attention from its safety role. Accordingly, the costs of such a merger could far exceed any benefits.

INTERMODAL IMPLICATIONS

SENATOR ANDREWS: To what extent do local airport authorities and the Federal Government collaborate on needed transportation improvements for better airport handling. For example, what studies have been conducted of highway capacity around airports?

ANSWER: There is extensive and effective cooperation between the FAA and airport authorities in planning airports and airport ground access facilities. The FAA provides financial support and technical guidance for locally sponsored planning studies. The implementation of plans depends on local initiative and involves competition with other proposals for funding. Overall, we believe that ground access facilites are keeping pace with the needs of the airport system.

Some studies of highway capacity around airports include:

Airport Ground Access, Report No. FA-EM-79-4, FAA, October 1978

Airport Ground Transportation - Problems and Solutions, Report No. DOT-1-82-48, February 1981

Airport Ground Access Planning Guide, Report No. FAA-EM-80-9, Transportation Systems Center, DOT, October 1980

Access to Commercial Service Airports, Report DT-FA-01-83, FAA, June 1984

SENATOR ANDREWS: Does FAA participate in any department-wide planning efforts to integrate air and land investments for smoother movement of people and goods?

ANSWER: There is a continuing dialogue between the FAA and DOT regarding the appropriate level of investment in airport facilities, from a broad Federal perspective. Detailed airport planning is conducted at the state and local level, with support from the FAA and other DOT elements as warranted. These planning efforts focus on providing a balanced airport facility that is integrated into the regional transportation system. The policy discussions and results of local plans are brought together in the preparation of the National Plan of Integrated Airport System.

HOTLINE

SENATOR ANDREWS: To what extent has the Administrator's Hotline been used since establishment on August 6? What personnel, safety and other issues are being raised? How does the Administrator's Staff verify and work on solutions to reported problems? What else is being done to improve morale?

ANSWER: The Administator's Hotline has been in operation continuously since its establishment on August 6. The Hotline telephones are manned from 8 a.m. to 5 p.m., eastern time, Monday through Friday. Answering machines are used to convenience those FAA employees unable to call during manned hours of operation. The nature of the calls ranges from inquiries concerning FAA plans for the future to suggestions, ideas, inventions, or questions directed more specifically to individual employee concerns about pay and working conditions. To insure the most direct, accurate, and timely response, the Administrator's Staff involves the employee's employing jurisdiction, the appropriate headquarters associate administrator, and any other organizational element having an interest or input into the subject.

Questions on employment and promotion, classification and pay, and insurance and annuities, accounted for 72 of the 188 inquiries in August. Twenty-three callers raised questions about the Air Traffic Control System and its management. Looked at by key types of facilities: ARTCC's have generated 69 calls, terminal facilities 46 calls, FSS's 27 calls, and AF sectors 15 calls. Six calls came from Flight Standards facilities.

SENATOR ANDREWS: Does the FAA have any plans to instruct controllers to give priority consideration to flights destined to any of six airports now dealing with schedule adjustments.

ANSWER: Normally aircraft are treated on a first come, first come first served basis. There are no plans to grant priorities to aircraft destined for the six airports.

TOWER CONTRACT PROGRAM QUESTION FOR ADMINISTRATOR ENGEN

SENATOR ANDREWS: In the last two years the FAA has reopened temporarily closed towers at eight airports by contracting-out the air traffic control services of the tower to the private sector. Additionally, this committee understands that the FAA will add six more towers to the contracting program by the end of 1984 and is currently developing a comprehensive Level I VFR Control Tower Program which will meet the needs of industry, Congress, the Federal government, and most importantly, the traveling public. Can you please provide the committee with a status report of this program and timetable for its implementation.

ANSWER: The FAA's expanded fiscal year (FY) 1984 pilot program for contract tower operation includes 15 federal control towers. To date, 9 locations are operating as FAA contract towers and the remaining 6 locations are in the final negotiation stages. The 9 in operation are Flagstaff, Arizona, Owensboro, Kentucky, Farmington, New Mexico, Cleveland (Cuyahoga County), Ohio, Ardmore, Oklahoma, Enid, Oklahoma, Pendleton, Oregon, North Myrtle Beach, South Carolina, and Laredo, Texas. The 6 in the final negotiation stages are Merced, California, Topeka (Billard), Kansas, Cape Girardeau, Missouri, New Bern, North Carolina, Mayaguez, Puerto Rico, and Lewisburg, West Virginia.

The FAA's proposed Low Activity (Level I) VFR Control Tower Program is in the final internal coordination phase and is expected to be completed by October 1984. The goal of this program is to make the most efficient use of resources and fulfill the agency's mission to ensure air safety, promote air commerce, and support national security in the most economical manner. The concept of the FAA's proposed plan is to contract with a state or political subdivision thereof for the operation and maintenance of VFR control towers. The proposed program addresses criteria, a cost-sharing formula, operational requirements, and other pertinent issues, and has been designed to meet the needs of users, airport sponsors, industry, Congress, and the Federal government.

Budgetary planning has been initiated to include an additional 30 control towers, for a total of 45, in the program for FY 1985. The sites have not been identified pending final approval of the program. Once the program is approved, budgetary planning will be initiated for succeeding years as appropriate and the plan will be implemented in phases to ensure program manageability and continuity of tower services.

FUELING QUESTION FOR ADMINISTRATOR ENGEN

SENATOR ANDREWS: We understand the FAA is reviewing its position that airport operators be held responsible for the establishment and monitoring of safety procedures by commerical fuelers. Airport operators and executives are understandably concerned about the potential liability such a requirement implies, as they have neither the expertise nor the ability to monitor the training, handling, or dispensing procedures necessary to guarantee safe fueling by tenants. Further, the current rule only applies to some 600 airports, but we believe that the safe fueling of aircraft is important at all airports. Will you follow the NTSB recommendation on this and certificate commercial aircraft fuelers?

ANSWER: We expect to issue a Notice of Proposed Rulemaking (NPRM) in the near future that will review all of Part 139. This process will explore the question of whether the airport owner/operator should have a responsibility to assure that tenant fueling agents on his airport establish reasonable quality control procedures to prevent fuel contamination.

We believe that the rule as presently written is reasonable; is not overly burdensome; will not require the operator to be a fueling expert or to monitor day-to-day fueling operations; and will not unfairly increase an airport operator's liability in the event of a fuel-related accident. Although it is quite correct that safe-fueling is important on all airports, so are all safety standards. However, Congress has emphasized that we enforce safety standards on certificated airports. This is no different from other safety procedures in Part 139, hence the latter is a proper regulatory vehicle. We must emphasize that the agency has not made a final decision on this and we will consider all comments received in the NPRM process before taking final action.

SENATOR ANDREWS: We understand that in Bronger et al. v. OPM (decided July 26, 1984) the Court of Appeals found that controllers could be credited with military controller time, thus accelerating their eligible retirement date. What are the longer-term implications of this decision for the number of eligible retirees? If this decision stands, how many more than the current 2,300 controllers would be eligible for retirement?

ANSWER: Our automated personnel records systems normally do not maintain specific information related to the military occupation specialities of employees' prior military service. However, a cursory review of the current center/tower air traffic controller work force shows that approximately 1,000 additional controllers with military service could be eligible to retire by the end of this year if their military control service is credited for early retirement purposes. However, it is unlikely that these individuals would exercise their retirement rights immediately upon attaining eligibility.

QUESTIONS SUBMITTED BY SENATOR CHILES

IS AIRLINE OVER SCHEDULING FAIR TO THE PUBLIC?

SENATOR CHILES: One of the many causes of aviation delays is that airlines are over scheduling. In a recent story in the Transportation News Digest, the following examples of over scheduling were given.

- At Kennedy International Airport on a recent day in August, 63 planes were scheduled to arrive in the hour beginning at 3:45 P.M. The Airport could handle only 44 flights even with clear weather.
- At LaGuardia 80 airline arrivals and departures were scheduled for the hour starting at 8:00 A.M. The capacity was 68.
- At St. Louis in August, 69 planes were waiting to take off in the hour of 6:00 P.M. The capacity was 44.

Not only is over scheduling one of the major causes of airline delays, but it also seems to me to be misleading and not consistent with "truth in advertising". If the airlines say they are going to have 69 plans taking off from the St. Louis Airport during a certain hour and we all know that only 44 could possibly take off, is it fair to let the public and 25 aircraft sit on the ground and experience significant delays beyond 15 minutes?

Mr. Engen, do you believe the problem involves an issue of "truth in Advertising" and do you believe that the consumer rights are being protected by airline over scheduling?

ANSWER: The examples cited in the question graphically illustrate the problems with airline overscheduling. It certainly is true that airlines which advertise flights arriving at certain times at airports that cannot possibly handle the number of flights scheduled at those times pose a problem for consumers trying to make rational choices as to which flights to take.

FAA believes that, as the airline agreement to shift schedules is implemented, the schedules will become more realistic tools.

WHAT ARE THE BEST SHORT-TERM SOLUTIONS TO THE PROBLEM?

SENATOR CHILES: Mr. Engen, we read in the Washington Post yesterday that airline industry executives are meeting in Crystal City in an attempt to reduce peak demand and to reduce the problems of over scheduling. I have also noticed newspaper accounts quoting former CAB Chairman Cohen who indicated that the over scheduling problem should be solved by the market place. This could simply be done by auctioning off available peak period slots to those airlines willing to pay the price. This could then be passed on to those people who are willing to pay the premium for traveling at the most desirable times. What progress is being made by the airline industry to work together cooperatively to solve the over scheduling problem? What percentage of the problem do you think can be solved by the industry effort in this regard? What is your view with regard to letting supply and demand equalize by market forces and letting the airlines and the traveling public pay a premium for traveling at the most desirable times?

ANSWER: Airline industry representatives have reached agreement to solve the scheduling problem. FAA anticipates that with this agreement, most delays now occurring under good weather conditions can be eliminated. Mr. Cohen represents one side of the argument. Many disagree with him. In any event, a market mechanism will only determine which carriers utilize a slot. These meetings have been used to space flights within timeframes which will reduce delays. The auctioning off of peak hour slots will not accomplish that.

MAJOR ELEMENTS OF THE PROBLEM

SENATOR CHILES: What steps are you taking to retain seasoned controllers now eligible to retire?

ANSWER: The agency has taken action on and is exploring actions that can be taken to entice prospective retirees to put off retirement:

(1) Extended the declaration of exigency of the public service through January 5, 1986. This results in controllers having until December 31, 1988 to use the carryover (restored) annual leave that has been accumulated since the strike.

(2) Working with Office of Personnel Management to alleviate the carryover leave problem beyond December 31, 1988. Several alternatives are being explored.

(3) On-the-job training premium pay for air traffic supervisors has been extended to December 31, 1985 in lieu of the December 31, 1984 termination date.

(4) A letter signed by the Administrator was sent to each field air traffic employee at his/her home address. This letter was of appreciation for the job performance since the strike and asked employees who are considering retirement within the next 5 years to stay onboard to the logical conclusion of the air traffic recovery. It also detailed actions being taken and considered by the agency in behalf of the employees. A copy is attached.

(5) Established a hotline for the use of agency employees to use in reporting personnel problems, inequities, suggestions, operational safety items, or any other issue that the employee feels is not being addressed through normal channels.

(6) Extended policy allowing air traffic supervisors performing controller duties more than 20 percent of their time during the workweek to be paid FLSA overtime through December 31, 1985.

THE APPROPRIATE LEVEL OF STAFFING

SENATOR CHILES: A great deal of discussion has gone on since the President fired 11,400 air traffic controllers approximately 3 years ago. Since then, the system has been rebuilt and there are now currently 13,246 controllers on board. However, only 7,588 are fully qualified controllers. I understand you plan to hire another 1,400 controllers which would bring the total controller work force to 14,400. This would compare with your pre-strike total of 16,400. Additional controllers would permit a number of procedural changes to be made without affecting safety. For example, more controllers would permit the en route air separation distances to be reduced.

Nevertheless, I noticed in Administrator Engen's statement that implementing all of the procedural changes recommended by the think tank group would result in only modest increases in capacity. How significant has the reduced number of air traffic controllers been in the delays that have been experienced over this past summer compared, for example to the over scheduling problem that has been discussed earlier?

ANSWER: In 1982, 61% of delays were related to reduced staffing in the centers and control towers. In 1984, only 14% of the delays have been attributed to center/sector volume. Center/sector volume problems are caused by excessive en route aircraft scheduled to converge upon a sector in numbers greater than can be handled effectively. Recent demand management meetings to adjust schedules will help to spread this en route traffic and improve en route volume delays. This is a congestion problem caused by a demand for airspace as opposed to a staffing problem.

SENATOR CHILES: Are you satisfied that a controller work force of 14,400 will be adequate in view of the fact that there were 16,400 controllers before the strike to accommodate an even smaller amount of aviation traffic?

ANSWER: Our goal is a controller work force of 14,306 by February 1985. We believe this will be an adequate work force. We were overstaffed before the strike. The staffing standards then provided staffing to meet the peak traffic loads on the 37th busiest day of the year. Most of the time there were more controllers on duty than were needed. Today, we have better traffic metering procedures to smooth the peaks and we use more overtime during busy periods. We also require first-line supervisors to work controller positions more frequently to maintain their currency. Nevertheless, we will continue to monitor the issue of controller staffing and will request additional staffing should it subsequently be determined necessary.

WHERE SHOULD THE AIRLINES TAKE THEIR DELAYS?

SENATOR CHILES: The FAA has required the airlines to take their delays primarily on the ground -- delaying departure time until an airline can take off and fly directly without en route delays to its destination. The airlines, according to many of the trade journals, prefer to take delays in the sky, believing that their chances at the destination airport may improve en route and that controllers at the destination airport may be able to find a way to work them in if they are in a circling pattern. The consumers also seem to prefer to take their delays in the air.

Mr. Engen, what is your view as to the appropriate place to take delays? It seems to me that taking them on the ground is not only safer, but should also reduce airline operating expenses.

ANSWER: We seek no delay but ground is less costly than airborne delay. We will continue to use both ground and airborne in a mixture to provide the least delay at destination.

QUESTIONS SUBMITTED BY SENATOR WEICKER

SENATOR WEICKER: To what extent are the flight delays related to the number of qualified air traffic controllers?

ANSWER: In 1982, 61% of delays were related to reduced staffing in the centers and control towers. In 1984, only 14% of the delays have been attributed to center/sector volume. Center/sector volume problems are caused by excessive en route aircraft scheduled to converge upon a sector in numbers greater than can be handled effectively. Recent demand management meetings to adjust schedules will help to spread this en route traffic and improve en route volume delays. This is a congestion problem caused by a demand for airspace as opposed to a staffing problem.

SENATOR WEICKER: What is being done to insure that passengers are given the most up-to-date flight information and what services are offered to passengers whose flights have been delayed?

ANSWER: Different airlines monitor the progress of their flights in different ways. The extent to which flight progress information and delay assistance services are provided to passengers is part of the air transportation package of services provided to passengers by each airline. In a deregulated environment, the composition of this package is determined by market forces and is outside the scope of governmental regulation.

SENATOR WEICKER: It has been my experience that secondary airports, such as the airport in Hartford, Connecticut, have been hit the hardest by airline deregulation. Fare wars have not been advantageous to consumers in secondary areas. What is being done, or what can be done, to improve and develop service to those areas where the numbers of flights seem to be decreasing rather than increasing?

ANSWER: In a deregulated environment, airlines can be expected to produce the quantity and type of services demanded by their passengers. Unrestricted by regulation, airline managements will commit resources to particular markets as required to meet consumer demands. While such shifts may cause a decrease in services provided in particular markets, overall they will result in an improved level of air transportation services provided to the public at fares that approach the cost of producing these services.

CONCLUSION OF HEARING

Senator ANDREWS. The subcommittee stands in recess, subject to the call of the Chair.

[Whereupon, at 12:45 p.m., Friday, September 7, the hearing was concluded and the subcommittee recessed, subject to the call of the Chair.]

MATERIAL SUBMITTED SUBSEQUENT TO THE HEARING

[CLERK'S NOTE.—The following statements were not presented at the hearing, but were submitted to the subcommittee for inclusion in the record subsequent to the hearing:]

STATEMENT OF LAWRENCE L. BURIAN, PRESIDENT, NATIONAL AIR TRANSPORTATION ASSOCIATION

The National Air Transportation Association (NATA)grateful for the opportunity to present this testimony for the record. As the national representative for over 1000 companies consisting of fixed base operators and air taxi/commuter airlines we are vitally concerned with the issue of delays in high-density airports. We are concerned, as both users of the system and service organizations dedicated to professional quality servicing of aircraft. Much of the rhetoric we have heard has focused on blaming general aviation for the problem of congested airports. We know, through coordination with organizations representing other aspects of general aviation at this hearing that statistical proof will be presented to refute that claim.

The reasons for our problems are many faceted. The most crucial being the current popularity of the airlines' "hub and spoke" system and the explosive growth of new entrants into the air carrier field. Certainly, general aviation is a contributing factor with an increase of approximately 6% in over-all activity at the so-called "pacing airports".

The simple fact is that all segments of aviation contribute to the problem. Rather than exacerbate the problem, let us all attempt to resolve the root cause of the current situation: insufficient capacity at certain airports in the national system.

The problem of airport and airway congestion must be addressed from both a long-term and a short-term perspective. We remain convinced that the long-term solution to this problem is full implementation of Federal Aviation Administration's (FAA) National Airspace System Plan. To this end, this Subcommittee remains an instrumental body. If aviation is to survive in the long-term, the Congress must no longer hold hostage the Aviation Trust Fund to which the aviation user is the sole contributor.

Interim steps can be taken until the nation's airports and airways are able to meet the demands of aviation on an unconstrained basis. As you know, the scheduled airlines are currently meeting to coordinate schedules to help relieve peak hour congestion.

General aviation, too, is initiating steps to help relieve airport and airway congestion. The National Business Aircraft Association (NBAA), for instance, has developed an information system to give real-time information to pilots on saturated sectors and terminal areas. We applaud NBAA's initiative in this regard and pledge our cooperation and support to ensure the success of the Fly Around Saturated Sectors and Terminals (FASST) program. With the information provided by NBAA's FASST program general aviation pilots will be able to contribute to the solution by avoiding problem areas.

In summary, Mr. Chairman, the cooperation of all parties; FAA, Congress, scheduled airlines and general aviation, is required to ensure our nation's aviation system is the most efficient, safest system in the world. NATA pledges its support to that goal.

Sincerely,

Larry Burian

Lawrence L. Burian
President

STATEMENT OF J. DONALD REILLY, EXECUTIVE DIRECTOR/SECRETARY GENERAL, AIRPORT OPERATORS COUNCIL INTERNATIONAL, INC.

The Airport Operators Council International (AOCI) is the association of those government bodies that own and operate the principal airports served by scheduled airlines in the United States (Attachment 1). Our U.S. members annually enplane more than 90% of the domestic and virtually all international scheduled airline passenger and cargo traffic. In addition, our members operate many of the reliever and general aviation airports throughout the nation which supplement the larger airports in their communities and entire regions.

AOCI would very much like the opportunity to submit comments for the record of the hearing which will be held on September 7, 1984, regarding Capacity and Delay Problems of the Air Transportation System. We are of the understanding these hearings are directed to the broad problem of airway/airport capacity and the recent delays experienced by commercial airlines and whether Congress should play a role in solving the overall problem. AOCI is of the belief that the ultimate solution to the problem of scarce airways or airport facilities is for Congress and the Executive Branch to take an immediate role in concert with the industry, to insure the development and provision of adequate aviation facilities so as to preclude at the earliest possible date the need for a slots program in the United States.

Notwithstanding the need for increased capacity, there is presently a need to provide some immediate relief (both short term and longer term) for the problem of capacity and delay for the reasons of safety and convenience to the air traveling public of this country. The Council and its membership have reviewed the current capacity and delay problems in some detail at a special meeting held for the membership to comment on this very subject. During this meeting a comprehensive policy was drafted that would not only deal with the allocation problems at hand, but also look to the future and set forth a foundation for eliminating the problem of limited airway/airport capacity entirely.

The primary objective of all parties concerned should be to increase both airway and airport capacity, thereby obviating the need for a slot program and returning to unrestricted access to both the airport and airways. AOCI also strongly believes that the allocation of airport capacity (runway, terminals, groundside and noise capacity) is within the airport proprietor's authority and these allocation issues are to be solved through traditional airport/tenant relations. The role of the Federal Government or the airline scheduling committees as allocating media should be the exception and must be limited to allocating airspace (as contrasted with airport) capacity. The traditional authority of the airport proprietor should not be diminished by any airspace allocative mechanisms.

In regard to allocating airspace capacity, AOCI recommends that the following concepts be adopted to solve both the short term problem of slot allocations and the long term problem of keeping pace with the growth of aviation by creating new capacity:

- the Federal Aviation Administration (FAA) should establish, through consultation with affected local airport management and users: (a) the true level of current airport capacity, and (b) measures that can be taken to increase current airport capacity.

- FAA should establish a longer term development program to increase slots at capacity-constrained airports.

- Airline scheduling committees should continue to establish distribution of slots for those hours at airports determined to be slot capacity-constrained, including recognition of the need to continue a basic EAS service.

- For each of those hours in each traditional six-month airline scheduling period at the particular capacity-constrained airport which airline scheduling committees are unable to establish slot allocations, that the following mechanism be instituted:

Based on the number of slots available for each hour:

1) 75% of the total number of hourly slots in these hours will be grandfathered to the airlines operating these slots at the time of committee deadlock; these slots cannot be used in any aftermarket buy/sell scheme.

2) Use of a lottery system to pick 25% of the slots to be auctioned (to facilitate new entrants and permit any public (airports) or private parties to bid on the slots);

3) Specify that only auctioned slots (those paid for by an airline) could be used in a post-auction buy-sell;

4) Specify that all newly created slots would be distributed by auction;

5) Auctioned slots would be for cash and these funds would be distributed (1) one-half to the slotted airport (to be used for airport capacity improvement projects or to encourage airline use of off-peak aircraft operations);

6) After market buy-sell arrangements between airlines (or other public/private parties) must be for cash, and the specifics publicly announced (in order to preclude and "surreptitious" arrangements);

- Assure continuation of an essential air service program for smaller airports;
- Require the federal government to provide the slots (through purchase of present slots or creation of new slots) for new international flights created in bilateral agreements; and
- Maintain strong assurances that each airport retains its full proprietary rights to implement further restrictions of total activity based on local airport needs.

The attached comments further elaborate on our position, and identify the rationale supporting each concept (Attachment 2).

If there are any questions regarding our comments, please do not hesitate to contact us for further clarification.

Sincerely,

Don Reilly

J. Donald Reilly
Executive Director/Secretary General

[ATTACHMENT 1]

AIRPORT OPERATORS COUNCIL INTERNATIONAL ROSTER OF MEMBERS

The Airport Operators Council International (AOCI) is the association of the primarily local governments that own and operate the principal airports served by the scheduled airlines in the United States and around the world. AOCI member airports annually enplane more than 90% of the total domestic and virtually all of the U.S. international scheduled airline passenger and cargo traffic. Worldwide, AOCI international member airports enplane two-thirds of all airline passengers on six continents. AOCI represents only its United States membership in testimony before Congress and in appearances before Executive Branch agencies.

UNITED STATES MEMBERS

ALABAMA:	Birmingham - Department of Aviation
ALASKA:	*Alaska - Department of Transportation & Public Facilities *Juneau - City and Borough of
AMERICAN SAMOA:	*Pago Pago - Government of
ARIZONA:	*Phoenix - Aviation Department *Tuscon - Airport Authority
CALIFORNIA:	Bakersfield - Kern County Department of Airports Burbank - Burbank/Glendale/Pasadena Airport Authority Fresno - City of *Los Angeles - Department of Airports Oakland - Board of Port Commissioners Palm Springs - City of Riverside - City of Sacramento - County of *San Diego - Unified Port District *San Francisco - City and County of San Jose - City of Santa Ana - Orange County Airport Santa Barbara - Municipal Airport Stockton - San Joaquin County
COLORADO:	Colorado Springs - City of Durango-La Plata - County Airport *Denver - City and County of Pueblo - Memorial Airport
CONNECTICUT:	*Windsor Locks - Connecticut Department of Transportation
DISTRICT OF COLUMBIA:	*Washington - Metropolitan Washington Airports
FLORIDA:	Daytona Beach - Regional Airport *Fort Lauderdale - Board of Broward County Commissioners Fort Myers - Lee County Airport Gainesville - Regional Airport *Jacksonville - Port Authority Melbourne - Airport Authority *Miami - Dade County Aviation Department Naples - Municipal Airport *Orlando - Greater Orlando Aviation Authority *Palm Beach - Board of County Commissioners Pensacola - City of *St. Petersburg-Clearwater - International Airport Sarasota-Manatee - Airport Authority *Tampa - Hillsborough County Aviation Authority
GEORGIA:	Albany - Albany-Dougherty County Airport *Atlanta - Department of Aviation Savannah - Airport Commission
GUAM:	*Guam - Government of
HAWAII:	*Honolulu - Department of Transportation

ILLINOIS:	*Chicago - Department of Aviation Moline - Rock Island County Metropolitan Airport Authority Peoria - Greater Peoria Airport Authority Rockford - Greater Rockford Airport Authority Springfield - Airport Authority
INDIANA:	Fort Wayne - Board of Aviation Commissioners *Indianapolis - Airport Authority South Bend - St. Joseph County Airport Authority
IOWA:	Cedar Rapids Des Moines - Department of Aviation Mason City - Municipal Airport Commission
KANSAS:	Topeka - Metropolitan Airport Authority Wichita - Airport Authority
KENTUCKY:	Lexington - Lexington-Fayette Urban County Airport Board Louisville - Regional Airport Authority of Louisville and Jefferson County Paducah - Airport Corporation
LOUISIANA:	Baton Rouge - Greater Baton Rouge Airport District Lafayette - Airport Commission *New Orleans - Aviation Board Shreveport - Airport Authority
MAINE:	*Bangor - City of
MARIANA ISLANDS:	*Saipan - Bureau of Transportation *Saipan - Mariana Islands Airport Authority
MARYLAND:	*Maryland - State Aviation Administration
MASSACHUSETTS:	*Boston - Massachusetts Port Authority Hyannis - Barnstable Municipal Airport
MICHIGAN:	*Detroit - Board of Wayne County Road Commissioners *Flint - City of Freeland - Tri-City Airport Commission *Grand Rapids - Kent County Aeronautics Board Jackson - County Airport-Reynolds Field Kalamazoo - Municipal Airport *Lansing - Capital Region Airport Authority *Muskegon - County Airport
MINNESOTA:	*Minneapolis-St. Paul - Metropolitan Airports Commission
MISSISSIPPI:	*Gulfport - Gulfport-Biloxi Regional Airport Authority Jackson - Municipal Airport Authority Laurel/Hattiesburg - Pine Belt Regional Airport Authority
MISSOURI:	Columbia - City of *Kansas City - Aviation Department *St. Louis - Airport Authority St. Louis County - Spirit of St. Louis Airport Springfield - Municipal Airport Board
MONTANA:	*Great Falls - International Airport Missoula - County Airport
NEBRASKA:	Lincoln - Airport Authority Norfolk - Karl Stephaan Memorial Airport North Platte - Airport Authority Omaha - Airport Authority
NEVADA:	*Las Vegas - Clark County Department of Aviation *Reno - Airport Authority of Washoe County
NEW HAMPSHIRE:	Manchester - Airport Authority
NEW JERSEY:	Trenton - Mercer County Airport Atlantic City - Airport Utility

NEW MEXICO:	*Albuquerque - City of
NEW YORK:	Binghamton - Broome County Airport *Buffalo - Niagara Frontier Transportation Authority *New York - Metropolitan Airports Authority *New York - Port Authority of New York and New Jersey *Syracuse - Department of Aviation White Plains - Westchester County Airport
NORTH CAROLINA:	Asheville - Regional Airport Authority Charlotte - City of Greensboro-High Point - Airport Authority Raleigh - Raleigh-Durham Airport Authority Winston-Salem - Airport Commisssion of Forsyth County
OHIO:	Akron-Canton - Regional Airport *Cincinnati - Kenton County Airport Board *Cleveland - City of *Columbus - Port Columbus International Airport *Dayton - Department of Aviation Toledo-Lucas County - Port Authority Youngstown - City of
OKLAHOMA:	Oklahoma City - Airport Trust Tulsa - Airport Authority
OREGON:	*Portland - Port of
PENNSYLVANIA:	Lehigh-Northampton - Airport Authority *Middletown - Pennsylvania/DOT Bureau of Aviation *Philadelphia - Department of Commerce *Pittsburgh - Greater Pittsburgh International Airport
PUERTO RICO:	*San Juan - Puerto Rico Ports Authority
RHODE ISLAND:	State of Rhode Island - Division of Airports
SOUTH CAROLINA:	*Charleston - County Aviation Authority Columbia - Metropolitan Airport Greenville-Spartanburg - Airport Commission
TENNESSEE:	Chattanooga - Municipal Airport Knoxville - Metropolitan Airport Authority *Memphis-Shelby County - Airport Authority Nashville - Metropolitan Airport Authority
TEXAS:	Austin - City of *Brownsville - City of *Dallas - Department of Aviation *Dallas/Fort Worth - Regional Airport Board *El Paso - City of *Harlingen - Vallley International Airport *Houston - City of *San Antonio - Department of Aviation
UTAH:	*Salt Lake City - Airport Authority
VERMONT:	*Burlington - Airport Commission
VIRGINIA:	*Newport News - Peninsula Airport Commission *Norfolk - Port and Industrial Authority Richmond - Capital Region Airport Commission
VIRGIN ISLANDS:	*St. Thomas - Virgin Islands Port Authority
WASHINGTON:	*Seattle - Port of *Seattle - King County Airport (Boeing Field) *Spokane - Airport Board
WISCONSIN:	Janesville - Rock County Airport La Crosse - Municipal Airport Madison - Dane County Regional Airport *Milwaukee County - Department of Public Works Oshkosh - Wittman Field Airport Rhinelander/Oneida - County Airport

WYOMING:	Casper - Natrona County International Airport Cheyenne - Airport Authority Rock Springs - Sweetwater County Airport Authority

AOCI NON-U.S. MEMBERS

AUSTRALIA:	Cairns - Port Authority Canberra - Department of Transport
AUSTRIA:	Vienna - Airport Authority
BERMUDA:	Hamilton - Ministry of Marine and Air Services
BRAZIL:	Brasilia - Empresa Brasileira de Infra-Estructura Aeroportuaria (INFRAERO)
CANADA:	Ottawa, Toronto & Montreal - Transport Canada
CHILE:	Santiago - Civil Aeronautic Ministerial Department
DENMARK:	Copenhagen - Airports Authority
DOMINICAN REPUBLIC:	Santo Domingo - Aeropuerto Internacional de Las Americas
EL SALVADOR:	San Salvador - Comision Ejecutiva Portuaria Autonoma
ENGLAND:	London - (British Airports Authority) Heathrow, Gatwick & Stansted Scotland - Aberdeen, Edinburgh, Glasgow & Prestwick
FRANCE:	Paris - Aeroport de Paris
GERMANY:	Cologne/Bonn - Flughafen Koeln/Bonn GmbH Dusseldorf - Flughafen Dusseldorf GmbH Frankfurt/Main - Flughafen Frankfurt/Main Aktiengesellschaft Hamburg - Flughafen Hamburg GmbH Hannover - Flughafen Hannover Langenhagen GmbH Munich - Flughafen Munchen GmbH
HAITI:	Port-Au-Prince - Aeroport International Francois Duvalier
HONG KONG:	Hong Kong - Civil Aviation Department
IRAQ:	Baghdad - State Organization of Roads and Bridges
IRELAND:	Dublin - Aer Rianta/Irish Airports Authority
JAMAICA:	Kingston - Airport Authority of Jamaica
ISRAEL:	Tel Aviv - Israel Airports Authority
ITALY:	Milan - Societa p. Az. Esercizi Aeroportuali (SEA) Rome - Aeroporti di Roma S.p.A
JAPAN:	Osaka - Kansai (Osaka) International Airport Terminal Building Co. Ltd. Tokyo - Japan Airport Terminal Company, Ltd.
KOREA:	Seoul - Korea International Airports Authority
MEXICO:	Mexico City - Aeropuertos y Servicios Auxiliares (ASA) Mexico City - Direccion General de Aeropuertos (DGA)
NETHERLANDS:	Amsterdam - Schiphol Airport Authority
NETHERLANDS ANTILLES:	Sint Maarten - Juliana International Airport
NEW CALEDONIA:	Noumea - Chambre de Commerce et d'Industrie
NEW ZEALAND:	Wellington - Ministry of Transport

NIGERIA:	Lagos - Nigerian Airports Authority
PHILIPPINES:	Manila - Bureau of Air Transportation
PORTUGAL:	Lisbon - Aeroportos e Navegacao Aerea (ANA)
SAUDI ARABIA:	Jeddah, Riyadh & Eastern Province - International Airports Projects
SRI LANKA:	Colombo - Airports Authority of Sri Lanka
SWITZERLAND:	Zurich - Civil Aviation Department
TAHITI:	Papeete - Societe D'Equipement de Tahiti et des Iles
TAIWAN:	Taipei - Civil Aeronautics Administration
THAILAND:	Bangkok - Airports Authority of Thailand
VENEZUELA:	Caracas - Instituto Autonomo Aeropuerto Internacional de Maiquetia

* U.S. International Airport

[ATTACHMENT 2]

COMMENTS OF THE AIRPORT OPERATORS COUNCIL INTERNATIONAL ON CAPACITY AND DELAY PROBLEMS IN THE AIR TRANSPORTATION SYSTEM

I am J. Donald Reilly, Executive Director of the Airport Operators Council International (AOCI). AOCI is the association of those government bodies that own and operate the principal airports served by scheduled airlines in the United States.

U.S. members annually enplane more than 90% of the domestic and virtually all international scheduled airline passenger and cargo traffic. In addition, our members operate many of the reliever and general aviation airports throughout the nation which supplement the larger airports in their communities and entire regions. (Attachment A)

Background

On June 7, 1984, the Federal Aviation Administration (FAA) issued two Notices of Proposed Rule Making which have the objective of permanently solving the problem of allocating "airspace/airport" slots to air carriers at four high density airports. The first of the two NPRMs (Docket No. 24110) sets forth procedures for giving away free both currently operated and newly created slots by the FAA. The second NPRM (Docket No. 22471) would allow the airlines the right to transfer virtually all their slots to other airlines for any consideration, in other words: the right to Buy-and-Sell slots. These two proposals also accept the continuation of the airline scheduling committee as the primary means of allocating slots. The NPRMs assume that a voluntary private industry resolution to a particular slot allocation problem is better than any Federal deadlocking mechanism.

AOCI strongly believes that the two NPRMs provide inadequate incentive for the scheduling committee concept to function properly. AOCI has therefore used the scheduling committee concept and more forceful incentives to form a new proposal which we believe provides fairness and equity to all parties involved, along with progress toward eliminating the problems of overcrowded airway/airport facilities.

Definition of the Problem

The term "slot" was created many years ago with the FAA's decision to limit air carrier operations at several FAA-classified "high density" airports that were experiencing congestion and delay in the late 1960s. Under its legislative charge to insure a safe and efficient air transportation system an FAA ruling was put into effect, on a temporary basis on April 27, 1969, to control congestion and delay until steps could be taken to improve the situation. Unfortunately, this high density rule is still in effect today, fifteen years later; and we now, unfortunately, speak in terms of permanent slot allocation rules. Factors such as deregulation and air carrier hubbing, the 1981 PATCO strike and the natural growth of aviation have all compounded the problem of high volumes of peak traffic. This growth will continue in the future unless we impose artificial constraints such as slot allocations. Therefore:

> AOCI believes that the ultimate solution to the problem of scarce airway or airport capacity is for Congress and the Executive Branch to take an immediate role in concert with the industry, to insure the development and provision of adequate aviation facilities so as to minimize, at the earliest possible date, the need for any slot program.

This recommendation should be given immediate priority as our primary objective. No one will be satisfied with perpetuating artificial constraints which, in most cases, are solvable. This must be the fundamental principle guiding our longer term activity.

Federal and Local Roles in Slot Allocation

But, as the Federal Government and industry work together to relieve any long term need for a slot program, we must face the reality of present day capacity problems. Shortages in both airway and airport facilities do exist today and there must be an adequate method devised to provide access for all airlines wishing to serve the system.

Recent statements made by the FAA Administrator have indicated that the problem of congestion and delay may not be eliminated with the recovery of the ATC system but may be "one of running out of available concrete." There remains the very real problem of further local airport capacity problems.

The allocation of airport capacity (runways, gates, terminals, groundside and noise capacity) is within the airport proprietor's authority and these allocation issues must be solved through traditional airport/tenant relations.

> The role of the Federal Government or the airline scheduling committee as the allocating media should be the exception and must be limited to allocating airspace (as contrasted with airport) capacity. The traditional authority of the airport proprietor should not be diminished by any airspace allocation mechanisms.

ESTABLISHING A FEDERAL SLOT ALLOCATION SYSTEM

In the process of establishing a Federal slot allocation program for airways we strongly urge that:

> The FAA should establish, through consultation with affected local airport management and system users: (a) the true level of current slot capacity, and (b) immediate measures that can be taken to increase current capacity.

This recommendation would effectively allow all concerned parties to provide actual data for the FAA's determination of an airport's safe, but maximized, level of operation. In addition:

> The FAA should establish a longer term development program in conjunction with airports and user groups to increase the number of slots at capacity-constrained airports.

The need for these programs is great, especially when only a small number of bottlenecks can cause the entire air transportation system to experience delay. The FAA's statutory obligation to maintain an efficient system should mandate accomplishment of these tasks much as FAA did with the recent National Airspace Review.

While our objectives must be the long term solution to the problem of scarce capacity, and initiating immediate programs to maximize current capacity for present use, we, too, agree that an equitable and fair slot allocation system must be established to address today's capacity problem. We therefore urge that:

> Airline scheduling committees should continue to distribute slots for those hours at airports determined to be slot constrained, after FAA has given full recognition of the need to continue a basic Essential Air Service program.

In our analysis of the two FAA NPRMs, we feel the incentives for the airline scheduling committees to accomplish their intended functions and reach agreement are not strong enough. The incumbent carriers will have little incentive to reach agreement if the proposed grandfathering of 100% of currently operated slots takes place upon scheduling committee deadlock. It then becomes the luck of the lottery draw to obtain any additional slots they are seeking; and if this method of obtaining slots fails, the aftermarket will always be available. On the other hand, the situation of the new entrant is somewhat different in that if only one new entrant does not obtain its desired slots, that carrier can merely prevent committee agreement and then take its chances in a lottery, with nothing to lose and everything to gain. These situations alone would cause many of the committees to reach an impasse with the prospect that the airline scheduling committee activities will fast approach a waste of time.

Better incentives for the scheduling committee concept is only one of the principles on which AOCI's proposal is based.

Further, AOCI opposes the concepts embodied in the NPRMs where slots would be given away "free" to a user who, in return, is allowed to sell his interest for a 100% profit. AOCI is firmly opposed to give-aways of public property which permits the user to make a profit on something not paid for in the first place. If any revenue is to be derived from the initial sale of slots, it should be used for providing new facilities to help solve the problem.

AOCI PROPOSAL

For each of those hours in each traditional six-month airline scheduling period at the particular capacity-constrained airport which airline scheduling committees are unable to establish slot allocations, AOCI urges that the following mechanisms be instituted:

A. Based on the number of slots available for each hour;

1. 75% of the total number of hourly slots should be grandfathered to the airlines operating those slots at the time of the committee deadlock; these slots should not be used in any aftermarket buy/sell scheme.

   This provision will provide several assurances:

   - grandfathering will provide a certain amount of stability to the current services carriers are operating;
   - some limited protection will also be obtained by smaller communities for retaining air service as it exists today.

2. 25% of the total number of hourly slots will be auctioned by the FAA. This provision requiring 25% of slots to be placed in an auction process would represent a substantial amount of carrier capacity during the period in question and, therefore, provide incumbents with more incentive to come to a reasonable, voluntary solution in a scheduling committee forum.

   a. a lottery process should be used, as necessary (to make up the 25%), to determine which airlines would have to give up slots each time the committee deadlocks, for placement in the auction pool.

      We believe the lottery is the fairest method of selecting slots , much like the plans for reducing capacity at National Airport.

   b. the auction will be conducted from one pool (containing both air carrier and commuter slots), and any private or public party may bid for each of these slots.

      The rationale for using only one pool reflects the broad needs of new entrants and the continuing commuter industry growth potential. Further, quotas will tend to hamper all carriers, or other parties in free and equal access to slots. We also believe that the prospect of acquiring a slot for only six months will hold down the price of auction slots as well as their resale value.

   c. only auctioned slots may be transferred in any aftermarket buy/sell arrangements.

      If a carrier or other party does not purchase a slot, the slot should not be salable thereby precluding any unjustified windfall.

B. All newly created slots, and previously grandfathered slots that may become available due to bankruptcy, non-use, or any other reason will be distributed by the airline scheduling committee procedure or by auction where deadlocks arise.

C. Auctioned slots as well as after-market transactions will be accomplished on a cash-only basis, with a full public record of the identity of the seller, the purchaser, and the amount paid.

> Slots are a public creation and, as such, should be paid for in order to prevent undue windfalls. We also feel there should be public disclosure of the parties involved and the amount of the consideration. Further, transactions should be made only for cash in order to preclude the possibility of anti-competitive agreements.

D. All funds collected by FAA from the auction mechanism should be distributed:

(1) one-half to be added to the AIP enplanement funds for use by airports for improved system capacity projects; and

(2) one-half to the airport at which the auctioned slots apply to be used (a) for airport capacity improvement projects, or (b) to encourage airline use of off-peak aircraft operations.

> We strongly believe that all auction revenues should be kept within the air transportation system and used for the creation of additional capacity. By permitting half of the funds derived from an auction to be added to the AIP enplanement funds, the money would be spent to encourage a general increase in capacity throughout the entire airport system. Allocating the other half of funds to the airport directly involved allows that airport to first create as much new capacity as possible and, if new capacity becomes finite due to factors outside the airport's control, then receipts will be used for programs to encourage carriers to operate in off-peak periods.

E. There must be stringent adherence to slot use-it-or-lose-it provisions (each auctioned slot must be used by incumbent carriers within 60 days after an auction process or an after-market transaction occurs or within 90 days by new entrant carriers; each slot obtained in an auction process must be used at least 90 days before it can be re-sold; all slots grandfathered or obtained by the auction process must be used 71% of the time in any two consecutive months).

> These slot restriction rules will prevent nonusage of slots and the practice of acquiring slots for speculative purposes. Slots not used within the specified period of time would revert back to the FAA for distribution at the airline scheduling committee meeting; or by auction if recaptured between such meetings.

F. The program should include and maintain a responsible "essential air service" program.

G. All current international flights will be grandfathered. If the U.S. Government authorizes new international operations through bilateral negotiations or if new international service --which has already been authorized -- commences, the U.S. Government must either buy the necessary slots or create new slots to service these needs.

> Both EAS and international service will have to be encompassed within any slot allocation proposal. International operations, though, have been given virtual freedom to enter airports to the detriment of domestic slotted services. We feel that international operations should stand on the same footing for slots as domestic operations.

While the above procedures are intended to address the Federal slot allocation program:

H. It must be recognized by all parties that each airport operator retains all its proprietary rights to implement at any time its own additional restrictions based on the needs of the local community and airport owner and operator (dealing with aircraft noise, air or landside airport space constraints, etc.).

Enforcement of Regulations

In concluding, I would like to emphasize the need for enforcing the current FAA policy which prohibits the buying and selling of slots.

Regarding the recent Eastern Airline request for approval by the FAA to acquire slots at both National and LaGuardia airports from the bankrupt Air Florida Airlines, AOCI believes that the FAA's reply to deny Eastern's request was the correct decision.

We urge FAA to continue to strenuously enforce its current policy. Unless there is active enforcement, the possibility of a "blackmarket" could develop in the future, or may have already developed, in slot transfers or the sale of non-transferable slots. This situation would penalize those airlines that wish to abide by applicable Federal regulations and place those carriers at a severe competitive disadvantage.

STATEMENT OF PEOPLE EXPRESS AIRLINES, INC.

COMMENTS OF
PEOPLE EXPRESS AIRLINES, INC.
IN OPPOSITION TO THE PROPOSED RULEMAKING

I. INTRODUCTION AND SUMMARY

On August 20, 1984, the Department of Transportation/ Federal Aviation Administration ("DOT/FAA") published a Notice of Proposed Rulemaking ("Notice"). 1/ The Notice proposes to implement severe and unnecessary restrictions on airline scheduling for certain peak hours at six major airports, including Newark International Airport, the hub for People Express Airlines, Inc. ("People Express").

People Express hereby submits its Comments to the Notice and, for the reasons set forth herein, strongly urges the FAA to withdraw the proposed rule. The Notice is both substantively and procedurally defective.

The proposed rule would impose economic reregulation of the most fundamental component of the airline industry -- scheduling decisions. Such action would go far beyond the scope of the agency's statutory authority.

Moreover, the proposal clearly violates the fundamental pro-competitive, anti-regulatory policies and tenets of the Federal Aviation Act and the Airline Deregulation Act. The proposed minute-by-minute regulation of airline schedules will severely cripple, even in the short-term, the growth and development of the Nation's competitive air transportation system and destroy the travelling public's effective access to that system.

The Notice is also fatally flawed because it is based on invalid premises and reaches conclusions that are totally unsupported by any facts or analysis. The paucity of data in

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1/ 49 Fed. Reg. 33082 (Aug. 20, 1984).

the Notice denies People Express and other interested parties an effective opportunity to comment meaningfully on the actions proposed. On August 22, 1984, People Express filed with the DOT and the FAA formal Freedom of Information Act requests for information, data and analyses concerning airport delays. People Express also filed a petition to extend the comment date to allow it to receive and digest the information it sought under the FOIA requests and thereby provide informed comments on the Notice. The FAA's failure to respond to the FOIA requests and the petition to extend the comment date is tantamount to denial and demonstrates the agency's disposition to deprive interested parties of their constitutionally protected right to a meaningful opportunity to submit informed responses.

Furthermore, the Notice violates procedural due process rights and the Administrative Procedure Act by failing to provide an adequate period of time, i.e., only 14 days rather than the statutory 30-day period, for the parties to submit informed comments and by failing to establish good cause for shortening the comment period. The Notice also fails to publish the language of a proposed rule, thereby denying interested parties a fair opportunity to comment thereon. Moreover, the Notice's failure to set forth any information or facts in the record to support the findings and conclusions has made it impossible for interested parties to confront the evidence (if there is any) which allegedly supports the proposed action.

Finally, by failing to provide any analysis of the adverse impacts of the proposed rule or to consider any of the numerous, less costly alternatives, the Notice violates the Regulatory Flexibility Act, Executive Order 12291 and the DOT's own Policies and Procedures.

For these reasons, the Notice must be withdrawn.

II. THE NOTICE IS LEGALLY FLAWED BECAUSE IT HAS FAILED TO SET FORTH ANY EVIDENCE OR ANALYSIS TO SUPPORT ITS FINDINGS AND CONCLUSIONS.

No requirement is more fundamental to the process of federal agency rulemaking than the requirement that such rules must be based on reasoned decisionmaking. No federal agency may take action that is arbitrary, capricious, or an abuse of discretion. 1/ The FAA is required to articulate a "rational connection between the facts found and the choice made", 2/ to apply and develop "ascertainable standards," 3/ to consider all relevant factors, 4/ and to "probe all feasible alternatives." 5/ The FAA's Notice fails to comply with these requirements.

The Notice is virtually devoid of facts that are necessary to support the FAA's draconian proposal to impose minute-by-minute regulation of airline schedules at certain peak hours at certain major airports. The FAA's extremely limited and very general articulation of facts concerning delays nationwide and at certain airports fails to establish a rational nexus between the alleged delays and the particular restrictions at the particular hours at the particular airports proposed in the Notice. Indeed, the rule is completely silent on the extent and causes of any alleged delays at the selected airports and during the particular hours.

If the FAA proposes to rely on facts or analyses that have not been set forth in the Notice, the FAA must submit

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1/ 5 U.S.C. § 706(2)(A)(1977).

2/ Bowman Transportation, Inc. v. Arkansas Best Freight System, 419 U.S. 281, 285 (1974).

3/ Hornsby v. Allen, 326 F.2d 605, 612 (5th Cir. 1964).

4/ Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402, 416 (1971); Environmental Defense Fund v. Corps of Engineers, 470 F.2d 289, 300 (8th Cir. 1972).

5/ Scenic Hudson Preservation Conference v. FPC, 354 F.2d 608, 620 (2nd Cir. 1965), cert. denied, 384 U.S. 941 (1966).

those facts into the record and provide the parties an opportunity to comment on, rebut and address those facts:

> Where .the] choice purports to be based on the existence of certain determinable facts, the Secretary must, in the form as well as substance, find those facts from evidence in the record. 1/

The Notice is short on facts and long on unsubstantiated findings and conclusions. The only evidence cited in the Notice to support the proposed rule are increases in the number of scheduled operations at the 22 largest airports and the 6 airports covered by the rule and increases in the number of delays from 1983 to 1984 for the period January through June and for June, in particular. The Notice does not indicate the nature of delays in the cited figures, i.e., whether the delays include delays of only thirty seconds or fifteen minutes or more -- one must assume the numbers include all delays, even extremely insignificant ones. Moreover, there is no indication whatsoever of how the alleged delays were computed. For example, the Notice does not explain whether the delays were computed on the basis of a comparison between actual aircraft operations and the Official Airline Guide (which many times is in error) or between actual operations and each air carrier's timetables. There is also no breakdown of the specific causes of delays and no separation of ATC delays from other delays.

The mere citation of an absolute number of delays or of increases in total delays does not establish that the delays have adverse impacts on the air transport system or the traveling public, nor that the bulk of the delays are ATC-related and therefore would be alleviated by the FAA's harsh

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1/ Industrial Union Department, AFL-CIO v. Hodgson, 499 F.2d 467, 475-76 (D.C. Cir. 1974); Amoco Oil Co. v. EPA, 501 F.2d 722 (D.C. Cir. 1974).

schedule restrictions. Nonetheless, the FAA has adopted such an irrational approach in the Notice.

First, the Notice implicitly presumes that ATC-delays constitute the bulk of airline delays. This is absolutely not true. In fact, most delays at congested airports are *not* ATC-related. *For the months of May, June and July 1984, 80% of all delays experienced at Newark by People Express, Newark's largest carrier, were non-ATC related*. Most of the delays were caused by weather conditions or in-house factors such as mechanical or customer service problems. Specifically, this past summer has been an extraordinary one for abnormally adverse weather, particularly in the Northeast. As the chart below demonstrates, rainfall at Newark International Airport for the months of May, June and July 1984 totaled 23.64 inches, *274% higher* than the 8.62 inches experienced during the same months in 1983, and *228% higher* than normal. For the month of July 1984, rainfall was *544% higher* than last year and May was *244% higher*. 1/

RAINFALL AT NEWARK INTERNATIONAL AIRPORT 1/
(INCHES)

	1984	1983	Normal
May	10.22	4.22	3.59
June	4.77	2.81	2.95
July	8.65	1.59	3.85
	23.64	8.62	10.39

In its Notice, the FAA acknowledges that "weather is always a factor in system performance and has caused much of this summer's delays." 2/ Yet, in developing its proposed restrictions, the FAA completely ignored this weather factor, in general, and Newark's aberrant 1984 summer weather conditions, in particular. Accordingly, unless the FAA demon-

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1/ National Weather Service, Newark International Airport.

2/ 49 Fed. Reg. 33082 (Aug. 20, 1984).

strates that ATC-delays are the primary, if not sole, cause of delays, scheduling restrictions can not be shown to be a rational remedy.

Second, the FAA has not submitted in the record any analysis concerning the percentage of delayed flights that actually arrived at the destination airports at or near the scheduled arrival time. As the FAA knows, virtually all airlines vary the published block-times in their schedules to account for the numerous causes of expected delays during peak and off-peak hours. For example, People Express' published flight times between Newark and Washington National Airport vary from fifty minutes to one hour and fifteen minutes depending upon the time of day. Thus, flights may depart Newark as much as 30-40 minutes late and yet arrive at their destination on time. Indeed, approximately 60% of all of People Express' flights experiencing departure delays at Newark in June and July actually arrived on-time. The FAA has apparently ignored this fact by focusing only on delays in scheduled departure time.

Third, the Notice attributes the delay problems as primarily, if not solely, the result of airline scheduling practices, citing in very vague and general terms the increasing number of scheduled aircraft operations at the major airports. Again, the record is incomplete and does not support the FAA's conclusion. The Notice conveniently ignores the substantial levels of general aviation, charter and air taxi activity during peak hours at the major airports. While it arguably may be true that total general aviation activity may have decreased slightly at some of the major airports, such activity still remains high during peak hours. At Newark, for example, during the four peak hours selected by the FAA for slot restrictions, general aviation activity accounted for 16% of all aircraft movements in May, and 13%

in June and July. 1/ Moreover, these figures do not include the substantial traffic using the New York TRACON and the enroute centers.

Fourth, assuming, arguendo, that the proper focus should be on scheduled operations, the Notice ignores the important fact that operations decrease substantially after August, particularly in the Northeast. Total ASM's for the industry decline anywhere from 15% to 20% from August to September. Consequently, the rule is not required to solve an existing, urgent problem.

Fifth, there is no rational basis for selecting Newark for discriminatory treatment. The fact that Newark is part of the New York control area is not alone sufficient to justify its inclusion in this rule. The FAA has not made any showing that delays at Newark are greater than delays at other major airports not covered by the Notice. In fact, a June 1984, FAA staff study, 2/ which the FAA did not make a part of the record in this Docket, showed that several airports, e.g., St. Louis, Washington National, Boston Logan, experienced greater frequencies and levels of departure and/or arrival delays than the delays experienced at Newark. Yet, the Notice would subject Newark, not these other airports, to its restrictive scheduling proposal.

Sixth, there is no basis to support the severe restrictions of only 68 operations per hour for Newark. Under the runway configuration employed more than 75% of the time, Newark's Engineered Perfomance Standard allows 111 operations per hour under VFR conditions and 102 operations per hour

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1/ Information received by People Express from the control tower at Newark International Airport.

2/ Official Airline Guide Schedules Versus Airport Capacity, June 1984, System Performance Branch, AAT-410.

under IFR conditions; these numbers are far in excess of the FAA's proposal.

As discussed in detail below, People Express believes that to the extent Newark may be experiencing ATC-related delays, it is because the FAA is employing erroneous factors and assumptions in setting its Engineered Performance Standards for EWR which unduly lower the airport's perceived capacity below its actual capacity.

Moreover, there are a number of reasonable alternatives that the FAA could adopt today that will increase Newark's capacity and thereby solve any alleged delay problems. These include, *inter alia*, (1) approval of instrument approaches for Runway 22R and Runway 11/29, (2) approval of converging approaches for Runways 4R and 11, (3) publication of approaches for use of Runway 29, (4) installation of more navigational aids for additional arrival/departure fixes, (5) use of three positions in the TRACON for Newark control (as it was designed) rather than only two, and (6) installation of a VOR/DME at EWR rather than continuing to use the Teterboro VOR/DME for EWR operations.

In summary, there is no rational connection whatsoever between the facts and the proposed regulatory remedy. As shown, the Notice has simply failed to establish any factual record to supports its conclusions:

(1) There are no facts of record to establish the extent of delays at the particular airports during the particular hours selected or that such delays will not diminish after the Labor Day weekend;

(2) There are no facts of record to establish that ATC delays are a prime cause of delays at the particular airports during the particular hours selected;

(3) There are no facts of record to establish that the departure delays resulted in passengers not arriving at

their destinations at, or reasonably near, scheduled arrival times;

(4) There are no facts of record to establish that scheduled air carriers, as opposed to other users of airport facilities, are the prime or sole contributors to delays;

(5) There are no facts of record to justify the selection of Newark International Airport for discriminatory treatment through slot restrictions, as opposed to other airports that experience delays of similar or greater magnitude; and

(6) There are no facts of record to justify the imposition of slot restrictions during the particular hours selected or at the particular levels proposed for Newark International Airport.

III. THE NOTICE VIOLATES THE POLICIES OF THE FEDERAL AVIATION ACT BY FAILING TO CONSIDER RATIONAL ALTERNATIVES TO SLOT RESTRICTIONS WHICH ARE MORE CONSISTENT WITH THE POLICY DICTATES OF THE FEDERAL AVIATION ACT.

A. The Notice Fails to Consider Rational Alternatives

Section 4(b)(1) of the Department of Transportation Act 1/ requires that:

> In carrying out his duties and responsibilities under this [Act], the Secretary shall be governed by all applicable statutes including the policy standards set forth in the Federal Aviation Act of 1958, as amended. . . 2/

Section 102 of the Federal Aviation Act sets forth the important pro-competitive policy standards which were established by Congress under the Airline Deregulation Act of 1978 ("ADA"). Among the significant standards underscored by Congress to govern determinations affecting air transportation is the requirement that the DOT/FAA place "maximum reliance on competitive market forces. . ." and foster

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1/ 49 U.S.C. § 1655(c)(1)(1976).

2/ 49 U.S.C. § 1653(b)(1)(1976).

> [t]he encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality and price of air transportation services. 1/

As the Civil Aeronautics Board ("CAB") observed in Order 84-8-129, restrictions on airline scheduling go to the "heart of the competitive process."

> Any intervention frustrates the Act's deregulatory purpose. The ADA freed carriers to fly wherever they believe market opportunities exist and compete on price, service, and schedules. Federal regulation, by the Board or DOT/FAA, impedes each carrier's ability to compete and should be permitted only when absolutely necessary. The standards of § 412 and the policy consideration of § 102 all lead to this conclusion.

Id. at 9. Airline management scheduling decisions are so important that, even prior to airline deregulation, the Federal Aviation Act expressly prohibited the federal government from restricting air carrier management prerogatives to increase, decrease or modify schedules. 2/ Thus, in accordance with the ADA's mandate, the FAA must first consider other, rational and less-anticompetitive, less-anticonsumer, less-regulatory alternatives before imposing severe restrictions on such important scheduling decisions. This requirement was explicitly acknowledged by FAA Administrator Donald Engen in a recent speech to the Chief Executive Officers of major airlines. In specifically discussing the airport delay rule, Administrator Engen stated that the FAA's "first preference is to jointly seek solutions" with the airlines to

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1/ 49 U.S.C. §§ 1302(a)(4) and (9)(1980) (emphasis added).

2/ Section 401(e)(4), 49 U.S.C. 1371(e)(4)(1976) stated:

> No term, condition, or limitation of a certificate shall restrict the right of an air carrier to add to or change schedules, equipment, accommodations, and facilities for performing the authorized transportation and service as the development of the business and the demands of the public shall require.

the perceived delay problem, that "if that effort fails, we can put in place the regulatory mechanism," but that such regulation would be regarded as "the last and least desirable result." 1/ But, contrary to the statutory directive expressly recognized by the Administrator, the Notice completely fails to discuss, much less consider, any rational alternatives, even though numerous, less restrictive, alternatives are available.

The FAA has completely ignored the substantial impact that general aviation operations have at the designated major airports during peak hours. In fact, during the four peak hours covered by the proposed rule, such activity represents a substantial portion of overall aircraft movements at Newark. 2/ The FAA cannot simply adopt the proposed rule, focused almost entirely on scheduled air carrier activity, without first shifting non-commercial activity to less congested time zones and less congested routes.

A recent Airport System Development study issued by the Office of Technology Assessment ("OTA") fully supports the proposition that general aviation operations should be diverted to less congested airports:

> General aviation accounts for a third to half of the traffic at the top fifty airports. However, fuel taxes and landing fees paid by general aviation make up only a small part of the costs of these facilities, which are built and maintained with public funds. Some observers question whether it is appropriate, in a time of increasing demand for capacity at major metropolitan airports, to continue accommodating general aviation at these locations, especially if this means further investment of public funds for new capacity.

The OTA study further observes:

1/ Speech by FAA Administrator Donald Engen, Altanta, GA, August 15, 1984.

2/ Averaging 16% in May, 13% in June, and 13% in July on Mondays-Fridays.

> Another approach to maximize the efficiency of airport use would be to impose restrictions on the type of aircraft that will be accommodated. By this method, flights with only a few passengers (e.g., general aviation or business aircraft) would be diverted from major air carrier airports to alternative sites (reliever airports) where they can be accommodated without causing delay to flights carrying larger numbers of passengers. 1/

The FAA itself has a longstanding policy "of recognizing a national interest in maintaining a public mass air transportation system, offering service on equal terms to all who would travel . . . When capacity limitations compel a choice, however, the public service offered by the common carrier must be preferred". 2/

The courts have strongly supported this rule of providing priority treatment to commercial, mass transportation services over private operations. In *AOPA v. Port Authority of New York*, 305 F. Supp. 93, 107 (E.D.N.Y. 1969), the court stated:

> The efficient utilization of air space in the interest of the greatest number of users of the air space plainly justifies the . . . distinction between large and small aircraft. . . It is not of course that General Aviation is not in the public interest. The relevant present consideration is that in any contest of rationing with mass transportation it must in reason and in right yield the right of way to mass transportation if, as is the case, not all demands for service can be met. 3/

The FAA Notice turns this policy and reasoning completely on its head by imposing the disproportionate impact of slot restrictions on commercial operations, operations that serve the greater number of people and provide the greater number of public benefits.

1/ OTA Study at 16 and 24 (Aug. 1984).

2/ 33 Fed. Reg. 17897 (Dec. 13, 1968) (emphasis added).

3/ 305 F. Supp. at 109 (emphasis added).

Furthermore, the Notice evidences no consideration of, or even familiarity with, a substantial number of additional actions that could immediately be implemented and would alleviate, if not eliminate, the alleged ATC-related delays. These include:

(1) Adoption of the East Coast plan to give Newark, LaGuardia and JFK their own departure and arrival fixes and to implement the plan immediately.

(2) Utilization of three positions in the New York TRACON for Newark operations in accordance with its original design instead of employing only two positions.

(3) Installation of additional navigation aids to add more departure and arrival fixes for Newark International.

(4) Approval of instrument approaches for Runway 22R at Newark International.

(5) Approval of instrument approaches to Runway 11 and converging approaches with respect to Runway 4R and runway 11 at Newark.

(6) Publication of approaches for use of Runway 29 at Newark.

(7) Resumption of limited enroute holding on an air carrier, voluntary basis during peak hours.

(8) Installation of a navigation aid (VOR-DME) at Newark International Airport rather than using the current VOR-DME at Teterboro, thereby enhancing arrival/departure fixes, speeding up approaches because of better accuracy, and improving air safety.

(9) Modification of air speed restrictions below 10,000 feet.

(10) Standardization and establishment of minimum enroute air speeds and employment of low/high altitude structures, allowing higher speeds for higher altitude jets

and restricting slower aircraft from the faster-aircraft corridors.

(11) Reduction of vertical separation minima.

(12) Reduction of horizontal in-trial separation minima.

(13) Resectoring of multi-airport urban areas.

(14) Establishment of different sectors for commercial and general aviation airports.

(15) Reduction of IFR approach weather minima.

(16) Revision of criteria for utilization of intersecting runways and, in particular, increasing use at Newark of Runway 11/29, which would allow greater traffic flow and reduce congestion and delays at Newark.

The FAA has not considered any of these reasonable alternatives to its restrictive, anti-competitive proposal. It has thus violated both the policies of the Airline Deregulation Act and the precepts of reasoned and rational administrative decisionmaking.

B. The FAA's Method For Determining Airport Capacity Does Not Validly Establish Actual Capacity To Handle Arrivals and Departures

Prior to implementing the draconian measure of imposing schedule restrictions on commercial operations, the FAA must also consider whether its standards for determining air carrier activity and capacity at each airport are unduly conservative, if not invalid.

The FAA's procedures for measuring airport capacity and for metering aircraft activity to comport with such capacity are contained in the Engineered Performance Standards ("EPS") and the Expanded Quota Flow ("EQF"), respectively. The EPS is a mathematical formula that establishes the "theoretical . . . number of aircraft that can be serviced by an arrival/departure runway configuration in an hour's time, given a representative aircraft mix, continual demand on all identified runways, and arrival/departure mix, and minimum IFR spacing, under variable weather conditions." 1/ The EPS formula drives the FAA's flow control metering process and is the fundamental construct for airport capacity. However, the EPS formula has never been subject to public scrutiny, review, or analysis. People Express strongly believes that the EPS figures for Newark International Airport are invalid, unduly conservative, and do not accurately measure the airport's capability of handling arrivals/departures under the various, frequently used runway configurations 2/ and under accurate real-world conditions. As a result, the use of EPS as a building block in the EQF metering process erroneously produces capacity figures that are below Newark's real-world capability based on actual circumstances prevailing at the time of the flight operations.

The EPS formula contains a number of assumptions concerning runway configurations, aircraft mix, weather conditions, arrival/departure mix, commercial/non-commercial mix, and airline schedules which may parallel actual conditions only by random coincidence. A modification of any one or more of the above factors could have a significant effect on increasing Newark's capacity figures.

The EPS methodology must be held to the light of public scrutiny so that interested parties can have a fair opportunity to express their views on the validity or invalidity of the EPS methodology, which is so fundamental to the FAA's airport capacity and air traffic control process. Thus, the

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1/ National Review, Air Traffic Control Management Engineered Performance Standards, Final Briefing, AAT-400 (emphasis added).

2/ A recent EPS report on Newark capacity ignores the most frequently employed runway configuration (Arrivals-4R; Departures-46/11). This configuration is used 75% of the time.

FAA cannot legally implement the Notice prior to allowing the public to review the EPS and EQF methodologies and procedures.

In any event, even if the EPS is accurate, the restrictions proposed in the Notice for the peak hours at Newark do not correspond to, and are much lower than, Newark's actual EPS capacity rating. People Express understands that the highest EPS capacity for Newark (under the most frequently employed runway configuration) is 111 operations per hour under VFR conditions and 102 operations per hour under IFR conditions. Inexplicably, the Notice sets Newark's maximum operations (under all conditions) at 68, which is 39% below the VFR standard and 33% below the IFR standard. 1/ The Notice sets forth no explanation whatsoever for this disparity.

IV. PROMULGATION OF THE PROPOSED RESTRICTIONS IS BEYOND THE SCOPE OF THE FAA'S AUTHORITY

The proposed airport delay rule affects none of the areas within the statutory ambit of the FAA and is, thus, clearly outside the scope of the FAA's statutory authority. The rule is an economic regulation. By law, such economic regulations may only be imposed, if at all, by the CAB.

The first step in judging the validity of an administrative agency's action is to establish whether the agency acted within the scope of its authority. Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402 (1971). This determination naturally begins with a delineation of the scope of the agency's authority and discretion. It must then be determined whether the facts supporting the agency's decision "can reasonably be said to be within the range" of

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1/ Sixty-eight operations per hour corresponds to about the EPS level under the worst weather conditions and runway configurations.

facts which can legitimately be considered by the agency. Id. at 823.

Under this analysis, the proposed rule is clearly beyond the scope of the FAA's authority and discretion. The Federal Aviation Act, 49 U.S.C. §§ 1301-1542 (1984), is the organic statute of both the FAA and CAB. The Act establishes a bifurcated regulatory construct, entrusting two distinct agencies with different responsibilities for aviation regulation:

> The FAA/DOT bears the primary responsibility for safety regulation, while the CAB administers and enforces the economic provisions of the Act.

Delta Air Lines Inc. v. CAB, 543 F.2d 247, 259 (D.C. Cir. 1976) (emphasis added). The FAA was given and retains responsibility for developing policy and rules governing the use of the navigable airspace, air navigation facilities and the flight of aircraft to ensure the safety of aircraft and the safe and efficient utilization of the nation's airspace. 49 U.S.C. § 1348 (1984). The CAB, on the other hand, has exclusive authority to exercise regulatory control over all economic aspects of air transportation, including the regulation of market entry and exit. 49 U.S.C. § 1371 (1984). The CAB has been charged with the broad responsibility for "the promotion of adequate, economical and efficient service by air carriers." 49 U.S.C. § 1302 (1984). Significantly, the CAB has been singularly entrusted with determining what airline service, i.e., to which cities and airports, is "consistent with the public convenience and necessity. . ." 49 U.S.C. § 1371(d)(1) (1984).

As the CAB recently indicated in Order 84-8-129, decisions affecting airline scheduling behavior go to the "heart" of the economic processes of this competitive industry. Given the above immutable standards, it is clear that the proposed airport delay rule is an economic regulation. It is not a regulation that merely has an incidental economic impact on carriers. The Notice was designed to address perceived economic problems ("passenger inconvenience" and "airline costs") 1/ caused by delays. Merely cloaking the Notice in the linguistic trappings of the FAA's statutory authority by brief reference to "the efficient utilization of airspace" is not sufficient to imbue the FAA with authority to act in the economic regulatory arena. A carrier's decision to provide a particular level of service at an airport during a particular hour will largely depend on purely economic considerations such as the projected costs of service, the demand for the service, and the expected profit to be derived from the service. The Airline Deregulation Act left these judgments to airline management, not the heavy hand of federal authority. The proposed rule would directly interfere with carriers in their attempts to evaluate and then service the recognized demand for air transportation at the six airports directly affected by the proposed rule.

The U.S. Supreme Court has specifically required that the factual grounds for an administrative agency's decision must be clearly within the agency's jurisdiction and purview. Overton Park, 401 U.S. at 402. Reduced to their essentials, the factual "findings" accompanying the FAA's Notice of Proposed Rulemaking concern "passenger inconvenience," and airline costs resulting from ground congestion. Neither of these issues is within the scope of the FAA's responsibility for regulating air safety or the efficient use of navigable airspace. The Notice explicitly states that safety is not an issue because flow control and air traffic procedures "ensure that aircraft remain on the ground until they can be accommodated."

1/ See, DOT Answer, CAB Docket 42410.

Flow control, therefore, maintains the efficiency of the airspace. Aircraft ground delays, which for the most part are not ATC-related, do not impact the use of airspace. Issues such as passenger convenience and the efficient utilization of ground facilities are properly within the province of the CAB, which is responsible for the "promotion of adequate, economical and efficient service by air carriers." Airport Commission of Forsyth County v. CAB, 300 F.2d 185, 186 (4th Cir. 1962).

For the above reasons, the FAA's promulgation of the proposed rule is not legitimized by either of the most recent cases on the apportionment of responsibility between the FAA and CAB. City of Houston v. FAA, 679 F.2d 1184 (5th Cir. 1982); Northwest Airlines, Inc. v. Goldschmidt, 645 F.2d 1309 (8th Cir. 1981).

In Goldschmidt, the Eighth Circuit upheld the DOT's regulation allocating IFR reservations for takeoffs and landings at National Airport. The regulation was founded on the established and obvious nexus between the allocation of takeoffs and landings at a particular airport and the management of airspace in and around the airport. There is no such nexus between the proposed airport ground delay rule and the authority properly excercised by the FAA. As noted above, the current rule does not purport, except in the vaguest terms, to enhance the efficiency of the use of navigable airspace around the six specified airports. It only purports to enhance ground facility utilization and passenger convenience. These are two goals which were not the thrust of the DOT regulation upheld by Goldschmidt, and are not within the FAA's scope of authority and discretion. 1/

1/ Similarly, City of Houston v. FAA does not support the FAA's airport delay rule. City of Houston affirmed the validity of the FAA's "perimeter rule," which prohibits air carriers from operating nonstop flights between

In sum, the proposed airport delay rule constitutes economic regulation that is not within the jurisdiction of the FAA.

V. THE NOTICE IS DEFECTIVE BECAUSE IT VIOLATES DUE PROCESS AND PEOPLE EXPRESS' RIGHTS UNDER THE ADMINISTRATIVE PROCEDURE ACT FOR A MEANINGFUL AND ADEQUATE OPPORTUNITY TO COMMENT AND BECAUSE IT VIOLATES THE REGULATORY FLEXIBILITY ACT

Section 4 of the Administrative Procedure Act ("APA") 2/ establishes rulemaking procedures which were "designed to assure fairness and mature consideration of rules of general application." 3/ In accordance with these procedures, the FAA is required to give interested persons "an opportunity to participate" in rulemaking through the submission of written comments and data. Specifically, the FAA must give the public at least 30 days to submit comments. 4/

In its headlong rush to issue complex regulations which will significantly and adversely impact the carriers and passengers using the affected airports, the FAA has ignored these statutory directives by unfairly limiting the comment

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National and airports more than 1000 miles away. 46 Fed. Reg. 36068 (1981), 14 C.F.R. § 159.60. The rule was explicitly premised on the FAA's rights as a proprietor rather than on its authority to regulate airspace. The Fifth Circuit erroneously accepted the premise that the FAA, not the CAB, was authorized to promulgate what was essentially an economic aviation regulation. The court stated that since the Airline Deregulation Act of 1978 "the CAB has obediently committed regulatory suicide," and that while the CAB once had responsibility for the area governed by the economic regulation, "it has lost it." 679 F.2d at 1196. The court thus adopted the position that a still-existing agency could "lose" its jurisdiction by some theory of default. This bizarre conception of administrative jurisprudence is clearly misguided and does not support the FAA's promulgation of the proposed economic regulation.

2/ 5 U.S.C. § 553.

3/ N.L.R.B. v. Wyman-Gordon Co., 394 U.S. 759, 764 (1969).

4/ 5 U.S.C. § 553(d); Connecticut Light & Power Co. v. Nuclear Regulatory Comm'n, 673 F.2d 525, 534 (D.C. Cir. 1982).

period under the Notice to only 14 days. As stated above, the FAA's Notice raises a host of factual issues. Yet, the Notice sets forth no facts and the restricted comment period does not provide interested parties with sufficient time to gather the necessary data to respond to these issues.

While the FAA's restricted comment period may allow People Express and others to submit statements, such as this one, concerning the proposed rule, the FAA has improperly denied the parties a fair and meaningful opportunity to address the numerous factual issues involved. People Express is not demanding the so-called "lengthy" rulemaking proceedings referred to in the Notice. 1/ It is simply seeking an opportunity to provide informed comments based on the facts, if such exist, that are primarily in the FAA's possession. To this effect, People Express filed a Petition for Extension of Time for Comments so that it could obtain the necessary data pursuant to its earlier filed Freedom of Information Act requests. Without this information, it is impossible for People Express or other parties affected by the proposed rule to address questions such as the following:

1. What is the magnitude and what are the causes of delays? To what extent, if any, is the efficiency of the airspace system being affected?

2. To what extent is the public being inconvenienced?

3. Is the current situation merely the product of short-term or seasonal factors?

4. To what extent, if any, would the proposed rule contribute to the attainment of goals within the agency's statutory jurisdiction?

5. Are there other measures which could have

1/ 49 Fed. Reg. 33083 (Aug. 20, 1984).

sufficiently beneficial results without so heavily restricting competition?

People Express' request for an extension has been unfairly and unreasonably denied.

Although an agency may reduce the 30-day comment period for good cause, such a determination must be based upon a finding that notice and comment procedures are "impracticable, unnecessary, or contrary to the public interest." 1/ The courts have strongly held that "exceptions to the notice and comment requirements will be narrowly construed and only reluctantly countenanced." 2/ According to the FAA, the proposed rule must be pushed through because "[a]irport delays have reached unacceptable proportions at many of the Nation's airports." Apart from the fact that there is not one scintilla of evidence to support this conclusion, the FAA also ignores the obvious fact that the Nation's airports operate at peak levels during the summer and that in September and October activity will significantly diminish, thereby alleviating any alleged airport congestion. 3/ Thus, the FAA has failed to demonstrate "good cause" for reducing the statutory comment period.

The Notice also fails to comply with the specific directives of the Regulatory Flexibility Act. 4/ Under 5 U.S.C. § 603, the FAA is required to provide an initial regulatory flexibility analysis setting forth, *inter alia*, a

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1/ *Action on Smoking and Health v. CAB*, 713 F.2d 795, 800 (D.C. Cir. 1983); *New Jersey Dep't of Environmental Protection v. EPA*, 626 F.2d 1038, 1045 (D.C. Cir. 1980).

2/ *Action of Smoking and Health*, 713 F.2d at 800; *New Jersey Dep't of Environmental Protection*, 626 F.2d at 1045.

3/ Published information by the Air Transport Association shows a precipitious decline in airline activity from August to September ranging from 15-20% each year.

4/ 5 U.S.C. §§ 600-612 (1984).

description of the reasons for the proposed action, a statement of the objectives and the legal basis therefor, and "a description of any significant alternatives." 1/

The FAA's only response to these statutory requirements is a brief conclusory analysis 2/ that is incorrect in assuming that the overall economic impact will be "minimal". To the contrary, the FAA's intrusion into carrier scheduling at six of the Nation's busiest airports will have substantial detrimental impacts. The Notice also fails to satisfy the statutory obligation to address any of the numerous available alternatives, such as those previously set forth herein.

Since the FAA has proposed a "major" rule, it is also required by Executive Order 12291 to prepare and submit a preliminary Regulatory Impact Analysis 3/ describing potential costs and alternative approaches. Again, however, the FAA violates this directive and merely relies on the incorrect conclusory statement that the proposed rule, which will disrupt the operations of many air carriers and which would deny access to millions of air travelers, has "minimal" impact.

The DOT's own Policies and Procedures also require the DOT and the FAA to prepare and make available to the public a draft Regulatory Analysis of each proposed regulation having a major effect. 4/ Once again, the DOT/FAA has ignored the obvious impacts of its proposed rule and has avoided its regulatory obligations.

In summary, the DOT and the FAA have completely failed to satisfy their duties under the Administrative Procedure

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1/ Id.

2/ 49 Fed. Reg. 33083, 33084.

3/ 46 Fed. Reg. 13193 (Feb. 19, 1981).

4/ 44 Fed. Reg. 11034, 11043 (Feb. 26, 1979).

Act, the Regulatory Flexibility Act, Executive Order No. 12291 and the DOT's own Regulatory Policies and Procedures. Accordingly, the Notice must be withdrawn.

VI. CONCLUSION

In conclusion, the Notice is both substantively and procedurally defective for a number of reasons. First, the proposed rule is an economic regulation which is beyond the scope of the FAA's authority. Second, the proposal violates the fundamental policies of the Federal Aviation Act and the Airline Deregulation Act. Third, the Notice is not supported by any rational, factual basis. Fourth, the FAA failed to consider reasonable alternatives that are more consistent with the policies of the Federal Aviation Act. Fifth, the restrictive 14-day comment period does not give the public a meaningful opportunity to submit informed statements concerning the proposal. Sixth, by failing to analyze the adverse impacts of the proposed rule or to consider any of the numerous, less costly alternatives, the FAA has violated the Regulatory Flexibility Act, Executive Order 12291 and the DOT's own Policies and Procedures. In view of these numerous substantive and procedural defects, People Express strongly urges the DOT/FAA to withdraw the Notice.

Respectfully submitted,

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